

EXHIBIT 293 – A

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF OHIO
3 EASTERN DIVISION
4 - - -
5

6 IN RE: NATIONAL : HON. DAN A.
7 PRESCRIPTION OPIATE : POLSTER
8 LITIGATION :
9 :
10 APPLIES TO ALL CASES : NO.
11 : 1:17-MD-2804
12 :
13

14 - HIGHLY CONFIDENTIAL -
15

16 SUBJECT TO FURTHER CONFIDENTIALITY REVIEW
17 - - -
18

19 November 9, 2018
20 - - -
21

22 Videotaped deposition of
23 ERIC CHERVENY, taken pursuant to notice,
24 was held at the law offices of Reed
 Smith, LLP, 1717 Arch Street,
 Philadelphia, Pennsylvania, beginning at
 9:50 a.m., on the above date, before
 Michelle L. Gray, a Registered
 Professional Reporter, Certified
 Shorthand Reporter, Certified Realtime
 Reporter, and Notary Public.

25 - - -
26 GOLKOW LITIGATION SERVICES
27 877.370.3377 ph | 917.591.5672 fax
28 deps@golkow.com
29

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<p>1 APPEARANCES: (Cont'd.)</p> <p>2</p> <p>3 ALSO PRESENT:</p> <p>4 VIDEOTAPE TECHNICIAN:</p> <p>5 David Lane</p> <p>6</p> <p>7 LITIGATION TECHNICIAN:</p> <p>8 Zach Hone</p> <p>9 ALSO PRESENT:</p> <p>10 Elizabeth Campbell, Esq.</p> <p>11 Drew Schnizel, Esq.</p> <p>12 (AmerisourceBergen)</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>	<p>1 - - -</p> <p>2 E X H I B I T S (Cont'd.)</p> <p>3 - - -</p> <p>4</p> <p>5 NO. DESCRIPTION PAGE</p> <p>6 AmerisourceBergen</p> <p>7 Cherveny-3 E-mail Thread 360</p> <p>8 2/21/18</p> <p>9 Subject, DNS List</p> <p>10 ABDCMDL00162810-13</p> <p>11 AmerisourceBergen</p> <p>12 Cherveny-4 E-mail, 8/25/15 371</p> <p>13 Subject, Time Sensitive</p> <p>14 Feedback Requested</p> <p>15 ABDCMDL00137146-47</p> <p>16</p> <p>17 AmerisourceBergen</p> <p>18 Cherveny-5 E-mail Thread, 374</p> <p>19 7/12/17</p> <p>20 Subject, Agenda for</p> <p>21 RAC Conference Call</p> <p>22 ABDCMDL00047022-23</p> <p>23 AmerisourceBergen</p> <p>24 Cherveny-6 E-mail Thread 367</p> <p>25 2/26/13</p> <p>26 Subject, Proposed Meeting</p> <p>27 With Barbara Bookholdt</p> <p>28 ABDCMDL00145773-74</p> <p>29</p> <p>30</p> <p>31</p> <p>32</p> <p>33</p> <p>34</p>
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<p>1 - - -</p> <p>2 I N D E X</p> <p>3 - - -</p> <p>4</p> <p>5 Testimony of: ERIC CHERVENY</p> <p>6 By Mr. Cluff 11</p> <p>7 By Mr. Pifko 199</p> <p>8</p> <p>9</p> <p>10 - - -</p> <p>11 E X H I B I T S</p> <p>12 - - -</p> <p>13</p> <p>14 NO. DESCRIPTION PAGE</p> <p>15 AmerisourceBergen</p> <p>16 Cherveny-1 E-mail, 12/11/13 261</p> <p>17 Subject, Memo of</p> <p>18 Understanding</p> <p>19 4/20/2000</p> <p>20 ABDCMDL00146183-86</p> <p>21</p> <p>22 AmerisourceBergen</p> <p>23 Cherveny-2 Security & 312</p> <p>24 Regulatory Update</p> <p>25 VP/DCM Meeting</p> <p>26 Dallas, Texas</p> <p>27 8/28/07</p> <p>28 ABDCMDL00269291</p> <p>29</p> <p>30</p> <p>31</p> <p>32</p> <p>33</p> <p>34</p>	<p>1 - - -</p> <p>2 D E P O S I T I O N S U P P O R T I N D E X</p> <p>3 - - -</p> <p>4</p> <p>5 Direction to Witness Not to Answer</p> <p>6 PAGE LINE</p> <p>7 290 7</p> <p>8 290 14</p> <p>9</p> <p>10 Request for Production of Documents</p> <p>11 PAGE LINE</p> <p>12 None.</p> <p>13</p> <p>14 Stipulations</p> <p>15 PAGE LINE</p> <p>16 None.</p> <p>17</p> <p>18 Questions Marked</p> <p>19 PAGE LINE</p> <p>20 None.</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>

<p style="text-align: right;">Page 10</p> <p>1 - - -</p> <p>2 THE VIDEOGRAPHER: We are</p> <p>3 now on the record. My name is</p> <p>4 David Lane, videographer for</p> <p>5 Golkow Litigation Services.</p> <p>6 Today's date is November 9,</p> <p>7 2018. Our time is 9:50 a.m.</p> <p>8 This deposition is taking</p> <p>9 place in Philadelphia,</p> <p>10 Pennsylvania, in the matter of</p> <p>11 National Opioid Litigation MDL.</p> <p>12 Our deponent today is Eric</p> <p>13 Cherveny.</p> <p>14 Counsel will be noted on the</p> <p>15 stenographic record.</p> <p>16 The court reporter is</p> <p>17 Michelle Gray and will now swear</p> <p>18 in our witness.</p> <p>19 - - -</p> <p>20 ... ERIC CHERVENY, having</p> <p>21 been first duly sworn, was</p> <p>22 examined and testified as follows:</p> <p>23 - - -</p> <p>24 THE VIDEOGRAPHER: Please</p>	<p style="text-align: right;">Page 12</p> <p>1 a named party?</p> <p>2 A. No.</p> <p>3 Q. Who were you testifying --</p> <p>4 let me back up.</p> <p>5 What was the -- what was the</p> <p>6 litigation about?</p> <p>7 A. I believe it was one of our</p> <p>8 customers.</p> <p>9 Q. Okay. Customer, and you</p> <p>10 said "we." Who is the "we"?</p> <p>11 A. AmerisourceBergen.</p> <p>12 Q. AmerisourceBergen is a large</p> <p>13 corporation. When you say</p> <p>14 AmerisourceBergen, do you mean the parent</p> <p>15 company or some subsidiary of that</p> <p>16 entity?</p> <p>17 A. I believe it was -- when I</p> <p>18 just answered that, it was for</p> <p>19 AmerisourceBergen Drug Corp.</p> <p>20 Q. Okay. So today, if we refer</p> <p>21 to AmerisourceBergen Drug Corp., could we</p> <p>22 abbreviate that as ABDC?</p> <p>23 A. Yes, of course.</p> <p>24 Q. And if we are talking about</p>
<p style="text-align: right;">Page 11</p> <p>1 begin.</p> <p>2 MR. CLUFF: Thank you.</p> <p>3 - - -</p> <p>4 EXAMINATION</p> <p>5 - - -</p> <p>6 BY MR. CLUFF:</p> <p>7 Q. Mr. Cherveny, before we get</p> <p>8 started, can you just spell your first</p> <p>9 and last name on the record to make sure</p> <p>10 it's clear?</p> <p>11 A. Yeah. Eric, E-R-I-C. Last</p> <p>12 name Cherveny, C-H-E-R-V-E-N-Y.</p> <p>13 Q. Okay. Thank you.</p> <p>14 And you understand that</p> <p>15 you're here as a fact witness today to</p> <p>16 give a deposition, correct?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. And have you ever</p> <p>19 given a deposition before?</p> <p>20 A. Yes.</p> <p>21 Q. When was that?</p> <p>22 A. A few years ago in New York.</p> <p>23 Q. Okay. And was that in</p> <p>24 connection with litigation where you were</p>	<p style="text-align: right;">Page 13</p> <p>1 its parent company, AmerisourceBergen</p> <p>2 Corp., we can call that ABC. Is that</p> <p>3 good?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. And so in that New</p> <p>6 York case, do you remember when it was</p> <p>7 filed?</p> <p>8 A. No.</p> <p>9 Q. Okay. But you recall giving</p> <p>10 a deposition approximately a year ago?</p> <p>11 A. No, no. It was several</p> <p>12 years ago.</p> <p>13 Q. Oh, I'm sorry. Several</p> <p>14 years ago, thank you.</p> <p>15 Within the last five years?</p> <p>16 A. No. I believe it was longer</p> <p>17 than that.</p> <p>18 Q. Okay. So maybe between five</p> <p>19 and ten?</p> <p>20 A. Yes.</p> <p>21 Q. All right. And you said</p> <p>22 that you believed it was one of ABDC's</p> <p>23 customers. What -- do you have a</p> <p>24 recollection of what the allegation was?</p>

<p style="text-align: right;">Page 14</p> <p>1 A. Absolutely no recollection 2 at all. 3 Q. Absolutely no recollection. 4 Okay. 5 Do you know if it was in 6 state court or federal court? 7 A. It was Eliot Spitzer's team 8 that was deposing me, so... 9 Q. So since it's been a while 10 since you've given a deposition, I wanted 11 to go over some things called 12 admonitions, just so you can understand 13 again. I mean, I'm sure your lawyer has 14 prepared you for today's deposition. 15 One of the things that we 16 like to do, though, just to make sure 17 everybody is on the same page on the 18 record. 19 So I'm entitled to have your 20 best understanding and your best 21 recollection to all of my questions 22 today. Your attorney is entitled to 23 object to my questions. But unless your 24 attorney specifically instructs you not</p>	<p style="text-align: right;">Page 16</p> <p>1 Q. But today you don't recall? 2 A. That's correct. 3 Q. Makes perfect sense. 4 I may ask you questions that 5 touch on issues that you may have 6 discussed with your attorneys. I'm never 7 asking you to disclose what we call 8 attorney/client privilege. And your 9 attorney may at times interject an 10 objection to clarify that you can answer 11 the question, but caution you not to 12 reveal communications that you had with 13 your attorneys. 14 But I am entitled to know 15 information that's within your own 16 personal knowledge, aside from what you 17 learned from them. Does that make sense? 18 A. Yes. 19 Q. Okay. Great. I want to 20 stay with this New York litigation a 21 little bit. 22 Are you aware of any other 23 litigation that was filed by 24 AmerisourceBergen customers against ABDC?</p>
<p style="text-align: right;">Page 15</p> <p>1 to answer a question, I'm entitled to an 2 answer. Okay? 3 A. Yes. 4 Q. I'm not going to ask you to 5 guess ever. But I am entitled to, as I 6 said earlier, your best recollection. 7 Sometimes I may ask you for an estimate 8 or your best attempt at getting to the 9 information that I'm asking. 10 At times, I may ask you 11 questions to which you may not know the 12 answer. I'm entitled to know, though, 13 whether you knew the answer to that 14 question at the time, and you just can't 15 recall, or whether you never knew. 16 Do you understand the 17 difference? 18 A. Yes. 19 Q. Right. So for an example, 20 this New York litigation, at some point 21 in time you knew something about the 22 allegations, correct? 23 A. Yeah, at some time I did, 24 yeah.</p>	<p style="text-align: right;">Page 17</p> <p>1 A. No. 2 Q. Never? 3 A. Not that I -- not that comes 4 to mind right now. 5 Q. Not that comes to mind. 6 Okay. 7 Is there any other 8 litigation that AmerisourceBergen has 9 been involved in that you can recall 10 aside from the litigation here today? 11 MR. NICHOLAS: Object to the 12 form. 13 THE WITNESS: I mean, 14 there's litigation that's 15 happening, but it's really not a 16 part of my direct job 17 responsibilities. So I might be 18 generally aware of it. But it's 19 not something that I know any 20 detail. 21 BY MR. CLUFF: 22 Q. What litigation are you 23 generally aware of? 24 MR. NICHOLAS: Object to the</p>

<p style="text-align: right;">Page 18</p> <p>1 form.</p> <p>2 THE WITNESS: I couldn't</p> <p>3 even -- I couldn't even state. I</p> <p>4 can't tell you anything at this</p> <p>5 point.</p> <p>6 BY MR. CLUFF:</p> <p>7 Q. But you said that you're</p> <p>8 generally aware of litigation. What is</p> <p>9 your general awareness?</p> <p>10 MR. NICHOLAS: Object to the</p> <p>11 form.</p> <p>12 THE WITNESS: I'll see</p> <p>13 e-mails from time to time. But,</p> <p>14 again, it's something that I'll</p> <p>15 see in passing. But I have a very</p> <p>16 busy job. So it's not something</p> <p>17 that I spend any time reviewing.</p> <p>18 BY MR. CLUFF:</p> <p>19 Q. Okay. This New York</p> <p>20 lawsuit, do you know who was suing who at</p> <p>21 the time?</p> <p>22 A. It was so long ago that it's</p> <p>23 something that I couldn't even -- I</p> <p>24 wouldn't feel comfortable answering that.</p>	<p style="text-align: right;">Page 20</p> <p>1 Q. And you don't know -- you</p> <p>2 mentioned earlier that it was about a</p> <p>3 customer. You don't know which specific</p> <p>4 customer, right?</p> <p>5 A. No.</p> <p>6 Q. We're going to talk later</p> <p>7 about your job responsibilities in a</p> <p>8 little more detail. But do you have any</p> <p>9 familiarity in your role at</p> <p>10 AmerisourceBergen or ABDC about the kinds</p> <p>11 of complaints that customers might have</p> <p>12 against ABDC that would lead to</p> <p>13 litigation?</p> <p>14 MR. NICHOLAS: Object to the</p> <p>15 form.</p> <p>16 Go ahead.</p> <p>17 THE WITNESS: Not in any</p> <p>18 detail.</p> <p>19 BY MR. CLUFF:</p> <p>20 Q. Okay. But do you have a</p> <p>21 general understanding?</p> <p>22 A. I know that lawsuits are</p> <p>23 filed against the company. But I don't</p> <p>24 really spend time going into it in any</p>
<p style="text-align: right;">Page 19</p> <p>1 I don't know.</p> <p>2 Q. You mentioned the name Eliot</p> <p>3 Spitzer and their team. Do you know if</p> <p>4 it was an action brought by a</p> <p>5 governmental entity?</p> <p>6 A. No.</p> <p>7 Q. You don't know if it was an</p> <p>8 Attorney General?</p> <p>9 A. I don't know.</p> <p>10 Q. Is there anything else that</p> <p>11 you remember at all?</p> <p>12 A. I remember absolutely</p> <p>13 nothing about it.</p> <p>14 Q. Okay. You don't remember if</p> <p>15 it was resolved by way of a settlement?</p> <p>16 A. No.</p> <p>17 Q. No judgment entered?</p> <p>18 A. No.</p> <p>19 Q. What were you called on to</p> <p>20 testify about?</p> <p>21 MR. NICHOLAS: Objection.</p> <p>22 THE WITNESS: I don't</p> <p>23 recall.</p> <p>24 BY MR. CLUFF:</p>	<p style="text-align: right;">Page 21</p> <p>1 detail. Like I said, I have a different</p> <p>2 set of job responsibilities. It doesn't</p> <p>3 really include that.</p> <p>4 Q. I understand that your job</p> <p>5 responsibilities might include other</p> <p>6 aspects of ABDC's business. But if</p> <p>7 you're telling me that you have a general</p> <p>8 understanding, I'm entitled to understand</p> <p>9 your understanding.</p> <p>10 So aside from the fact that</p> <p>11 you can't give me any particular detail,</p> <p>12 what general understanding do you have of</p> <p>13 the lawsuits that get filed against ABDC?</p> <p>14 MR. NICHOLAS: Object to the</p> <p>15 form.</p> <p>16 THE WITNESS: Very little.</p> <p>17 Like I said, it doesn't really</p> <p>18 come into play with my direct</p> <p>19 responsibilities with the company</p> <p>20 at this time.</p> <p>21 BY MR. CLUFF:</p> <p>22 Q. But what little do you</p> <p>23 understand? That's what I'm asking you</p> <p>24 to explain to me.</p>

<p style="text-align: right;">Page 22</p> <p>1 MR. NICHOLAS: Object to the</p> <p>2 form. Asked and answered.</p> <p>3 THE WITNESS: I mean, it's</p> <p>4 going to vary depending on</p> <p>5 lawsuit, from lawsuit to lawsuit.</p> <p>6 I'm not going -- - I'm sure they</p> <p>7 have a case against the company</p> <p>8 for whatever reasons, you know,</p> <p>9 that they have. But I don't know</p> <p>10 anything -- any details about the</p> <p>11 litigation beyond that.</p> <p>12 BY MR. CLUFF:</p> <p>13 Q. When you say "they," do you</p> <p>14 mean customers?</p> <p>15 A. It could be customers. It</p> <p>16 could be government entities.</p> <p>17 Q. What kind of cases do</p> <p>18 government entities file against ABDC?</p> <p>19 MR. NICHOLAS: Objection to</p> <p>20 form. Asked and answered.</p> <p>21 THE WITNESS: I think I've</p> <p>22 answered the question. I don't</p> <p>23 have anything more than a basic</p> <p>24 understanding that the company has</p>	<p style="text-align: right;">Page 24</p> <p>1 A. Yes.</p> <p>2 Q. Okay. So going forward I</p> <p>3 think we'll understand that, and there</p> <p>4 won't be an issue.</p> <p>5 All right. We might come</p> <p>6 back to these lawsuits a little bit</p> <p>7 later. But I think let's talk about your</p> <p>8 experience and your job. Does that make</p> <p>9 sense?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. So are you employed</p> <p>12 by ABDC?</p> <p>13 A. No.</p> <p>14 Q. Okay. So who are you</p> <p>15 employed by?</p> <p>16 A. I'm employed by the parent</p> <p>17 company, ABC.</p> <p>18 Q. Okay. How does your</p> <p>19 relationship to ABDC work out then?</p> <p>20 MR. NICHOLAS: Object to the</p> <p>21 form.</p> <p>22 THE WITNESS: Subsidiary</p> <p>23 company of ABC.</p> <p>24 BY MR. CLUFF:</p>
<p style="text-align: right;">Page 23</p> <p>1 lawsuits placed against it. I</p> <p>2 don't have any detailed knowledge</p> <p>3 about anything about the lawsuits</p> <p>4 that are placed against it other</p> <p>5 than what I've told you.</p> <p>6 BY MR. CLUFF:</p> <p>7 Q. Sure. So your lawyer just</p> <p>8 objected "asked and answered." And your</p> <p>9 response was "I think I've answered the</p> <p>10 question."</p> <p>11 So your lawyer, like I said,</p> <p>12 is entitled to object. But I'm entitled</p> <p>13 to the answer that you were going to give</p> <p>14 me prior to the objection unless you're</p> <p>15 instructed not to answer.</p> <p>16 So if you hear an objection</p> <p>17 like asked and answered, I'm still</p> <p>18 entitled to my answer. You can't just</p> <p>19 change your answer to say that you've</p> <p>20 answered the question.</p> <p>21 Sometimes my questions are</p> <p>22 going to be slightly different than the</p> <p>23 ones that I've previously asked. Does</p> <p>24 that make sense?</p>	<p style="text-align: right;">Page 25</p> <p>1 Q. Okay. And so what</p> <p>2 responsibilities as an employee of ABC do</p> <p>3 you have towards ABDC?</p> <p>4 A. I'm the director of</p> <p>5 diversion control and security for the</p> <p>6 company.</p> <p>7 Q. Is diversion control the</p> <p>8 same thing as security?</p> <p>9 A. No.</p> <p>10 Q. So you have kind of two</p> <p>11 responsibilities then, it sounds like,</p> <p>12 diversion control and then security</p> <p>13 separate from diversion control?</p> <p>14 A. The formal title has some</p> <p>15 security components to it. But it's</p> <p>16 primarily diversion that I'm responsible</p> <p>17 for.</p> <p>18 Q. Okay. How long have you</p> <p>19 been an employee of ABC?</p> <p>20 A. Going on 22 years.</p> <p>21 Q. 22 years. So that's</p> <p>22 sometime in the '90s, maybe '96?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. And when you started</p>

<p style="text-align: right;">Page 26</p> <p>1 with -- when you started working in '96, 2 did you join ABC or some prior iteration 3 of that entity? 4 A. The company I joined at the 5 beginning was Bergen Brunswick 6 Corporation. 7 Q. And what was your title when 8 you joined Bergen Brunswick? 9 A. I was a security officer. 10 Q. What were your -- what were 11 your job responsibilities as a security 12 officer? 13 A. Basic security functions, 14 conducting patrols, conducting escorts, 15 transporting executives. 16 Q. What are basic security 17 functions? 18 A. Dealing with security 19 issues, if a fight occurs, if 20 unauthorized personnel enter the 21 property. 22 Q. So, basically, making 23 sure -- 24 MR. NICHOLAS: He wasn't --</p>	<p style="text-align: right;">Page 28</p> <p>1 record. We'll get it corrected. 2 BY MR. CLUFF: 3 Q. What do you mean by 4 conducting a patrol? 5 A. We could -- we could conduct 6 detect patrols. We had a wand and -- 7 that had little readers throughout the 8 building and would document that a 9 security patrol was done and when it was 10 done. 11 Q. You said had a wand that 12 helped you document when the patrols were 13 conducted. But what were the patrols? 14 A. To walk through the entire 15 building, all floors, and just monitor 16 the building to make sure that there was 17 no dangers, that there was no fire, that 18 there was nothing -- nothing going on 19 from a security nature that would be 20 concerning. 21 Q. Okay. And you mentioned 22 that you were responsible for conducting 23 escorts. What would you be escorting? 24 A. Associates to their cars, if</p>
<p style="text-align: right;">Page 27</p> <p>1 he wasn't finished. 2 BY MR. CLUFF: 3 Q. I'm sorry. I didn't mean to 4 interrupt you. Sorry. 5 A. Basically just related 6 duties. 7 Q. Okay. So if I'm 8 understanding you correctly, it sounds 9 like that aspect of your job was to just 10 make sure that the physical location 11 where you were employed was safe and 12 secure. Would you agree with that? 13 MR. NICHOLAS: Object to the 14 form. 15 THE WITNESS: Yes, I would. 16 BY MR. CLUFF: 17 Q. Okay. You also mentioned 18 conducting controls. What does it mean 19 to conduct a control? 20 A. I'm not -- 21 MR. NICHOLAS: I think he 22 said patrol. 23 MR. CLUFF: Okay. Patrol. 24 My fault. There's a typo in the</p>	<p style="text-align: right;">Page 29</p> <p>1 they had a spousal dispute, executives to 2 the airport, executives from the airport 3 and related duties. 4 Q. So it sounds like there was 5 some overlap with the conducting escorts 6 and transporting executives that you 7 mentioned, right? 8 A. Yes. 9 Q. Okay. So when you were with 10 Bergen Brunswick, there was -- there was 11 no diversion control responsibilities, it 12 sounds like, correct? 13 A. That's correct. 14 Q. Okay. And how long did you 15 hold this title of security officer at 16 Bergen Brunswick? 17 A. I don't recall exactly. 18 Approximately two years. 19 Q. Two years. So maybe like 20 '96 to '98-ish? 21 A. Yes. 22 Q. Before you joined Bergen 23 Brunswick, did you -- what level of 24 education did you complete?</p>

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1 A. Just high school and some
2 college.
3 Q. Okay. High school and some
4 college. And where did you do the
5 college?
6 A. Golden West College in
7 Huntington Beach, California.
8 Q. Oh, yeah. I know it.
9 So are you originally from
10 west coast?
11 A. Yes.
12 MR. CLUFF: It's time to
13 wake up for somebody.
14 BY MR. CLUFF:
15 Q. When you were working with
16 Bergen Brunswick, did you work with Chris
17 Zimmerman?
18 A. Yes. He was with the
19 company when I joined.
20 Q. Okay. And what was his
21 position at that time?
22 A. I don't recall his exact
23 title.
24 Q. Okay. But you stayed with

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1 the company as it merged up into
2 eventually becoming ABC, correct?
3 A. That's correct.
4 Q. When you were at Golden
5 West, what kind of classes did you take?
6 A. General education, mainly.
7 Q. Okay. Anything specialized
8 towards security?
9 A. No.
10 Q. Did you complete an
11 Associate's degree?
12 A. No, I did not.
13 Q. Did you have any law
14 enforcement-type classes?
15 A. No, I did not at that time.
16 Q. So you'd agree with me that
17 none of your college classes overlapped
18 with the security responsibilities you
19 had at Bergen Brunswick, right?
20 MR. NICHOLAS: Object to the
21 form.
22 THE WITNESS: Yes, I would
23 agree.
24 BY MR. CLUFF:

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1 Q. So we said that -- or you
2 said that from '96 to '98 you were a part
3 of the security office or group at Bergen
4 Brunswick, right?
5 And was that at a facility
6 in Southern California?
7 A. Yes, it was.
8 Q. Do you know where it was?
9 A. 4000 Metropolitan Boulevard,
10 Orange, California.
11 Q. I know it.
12 Okay. And what did you do
13 after you were a security officer?
14 A. Well, they were looking for
15 a volunteer to type confidential
16 transcriptions of interrogations that our
17 investigators conducted. I type fast. I
18 typed about 60 words a minute back then
19 accurately. So I volunteered and I
20 listened to recordings for eight hours a
21 day, five days a week, and typed
22 transcriptions of those investigations
23 they never used, and after about six
24 months of doing that, I got noticed by

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1 the executives upstairs and I got
2 promoted to -- to upstairs.
3 Q. I want to go back to Golden
4 West just for a second. How long -- how
5 long were you attending classes at Golden
6 West?
7 A. What time period?
8 Q. Yeah. Like in terms of
9 months, years, weeks?
10 A. I think it was about one
11 year.
12 Q. About a year.
13 And were you a full-time
14 student?
15 A. I don't know if I was
16 formally full-time, but I was taking a
17 pretty full load.
18 Q. Okay. And so were you
19 taking a full load for two semesters
20 or -- what was your workload while you
21 were at Golden West?
22 A. It was -- I think it was
23 close to a full load. I think I was
24 taking about five classes per semester.

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1 Q. Per semester. How come you
2 decided not to pursue a further education
3 at Golden West?
4 A. I decided to join the Navy.
5 Q. Awesome. When were you in
6 the Navy?
7 A. I was in the United States
8 Navy from -- from '86 to '91.
9 Q. Were you on a boat?
10 A. Yes.
11 Q. Or ship, excuse me?
12 A. Yes, I was assigned to the
13 USS Nimitz.
14 Q. What -- what was your
15 responsibility in the Navy?
16 A. I was a radar air traffic
17 controller. I was a final, final
18 controller on board the Nemitz from '87
19 to '91.
20 Q. So no, no security
21 responsibilities there though, right?
22 A. I volunteered for shore
23 patrol pretty much every time I had duty.
24 So in that capacity I had -- I had

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1 security experience.
2 Q. Makes sense. The
3 interrogations that you were typing, I
4 believe that's the word you used, right?
5 A. Yes.
6 Q. Okay. Those were from
7 investigations that Bergen Brunswick
8 employees were conducting?
9 A. Yes, that's correct.
10 Q. What kind of investigations
11 were they?
12 A. They were various
13 investigations. But per my recollection,
14 they primarily involved internal thefts
15 of controlled substances.
16 Q. In the six months that you
17 were transcribing those interrogations
18 how many investigations do you think were
19 ongoing at that time?
20 A. I have no idea.
21 Q. Could you give me a
22 ballpark, maybe like more than 10, more
23 than 20?
24 A. I mean there were three or

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1 four investigators, and I would type
2 transcriptions for their individual
3 investigations as per their request. So
4 given the time period that's passed, I
5 wouldn't feel comfortable answering how
6 many investigations were conducted, you
7 know, at one time, or during the entire
8 six months. I just have no recollection
9 of that.
10 Q. The investigators that
11 worked at that time, were they full-time?
12 A. Yes. I believe so.
13 Q. Okay. And were they
14 employed by Bergen Brunswick, or were
15 they outside consultants?
16 A. No. They were Bergen
17 Brunswick associates.
18 Q. So Bergen Brunswick -- is it
19 fair to say that Bergen Brunswick had a
20 serious concern about internal theft at
21 that time?
22 MR. NICHOLAS: Object to the
23 form.
24 THE WITNESS: Yes. We've

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1 always taken that very seriously
2 as a company.
3 BY MR. CLUFF:
4 Q. In 1998 was there -- what --
5 what were the drugs being stolen, or what
6 products were being stolen?
7 A. I mean I would say generally
8 it would have been controlled substances.
9 Also Viagra was a -- was a product that
10 was commonly stolen from our distribution
11 centers.
12 Q. Any particular category of
13 controlled substances that were being
14 stolen at that time?
15 A. No, they spanned all
16 categories. We had vault products as
17 well as caged products that would be
18 Schedule II, as well as Schedule III
19 through V products.
20 Q. Okay. What is a vault
21 product?
22 A. The vaults are maintained to
23 hold Schedule II narcotics, and that's
24 per federal regulations.

<p style="text-align: right;">Page 38</p> <p>1 Q. Okay. Are all narcotics 2 Schedule II narcotics or is there some 3 variation in that group? 4 A. Narcotics are broken into 5 Schedule II and II-N. There'd be two, 6 Schedule II narcotics and non-narcotics. 7 Q. Okay. And then what's a 8 caged product? 9 A. Those are products 10 categorized in Schedule IIIs, IVs and Vs. 11 Q. What's the difference 12 between a cage and a vault? 13 A. Well, a vault is pretty much 14 what you would see in a bank. It's got 15 steel walls and it's constructed in 16 accordance with federal regulations to 17 hold controlled substances, specifically 18 narcotics. 19 The cage is really just 20 exactly the way it's indicated. It's a 21 cage that's chain-link fence that 22 generally has five sides, four sides plus 23 a ceiling. That's basically -- and it's 24 all constructed within federal</p>	<p style="text-align: right;">Page 40</p> <p>1 Q. And it sounds like what 2 you're saying is per the DEA regulations, 3 those needed to be more secure than the 4 Schedule IIIs, correct? 5 A. That's correct. 6 Q. And what is your 7 understanding of why they needed to be 8 more secure? 9 A. Generally speaking, per, per 10 federal regulations, the more powerful 11 the drug family, you know, the higher the 12 regulatory requirement for storage. 13 Q. What do you mean when you 14 say a more powerful? 15 A. Well, controlled substances 16 are broken into Schedule I through Vs. 17 Is, Schedule I products have no medicinal 18 value like LSD. It's used for like in a 19 research and laboratories. 20 Schedule IIs generally are 21 from the opiate pop, either it's 22 basically narcotics, opium. Generally 23 used for cancer patients, pain 24 medications. Schedule IIIs, IVs and Vs,</p>
<p style="text-align: right;">Page 39</p> <p>1 regulation, regulatory requirements. 2 Q. Sure. So if I understand 3 you correctly, the cage products, they go 4 inside this fence enclosure, and those 5 are Schedule IIIs -- or III, IV and Vs, 6 correct? 7 A. That's correct. 8 Q. It would seem like maybe 9 less security is necessary around those 10 products is -- is what is happening, 11 because there's a cage, not a vault? 12 A. Yes, per federal regulation. 13 Q. Okay. In your experience 14 was there less likelihood of theft of the 15 Schedule IIIs versus Schedule IIs? 16 A. No. No, pretty much it was 17 all stolen pretty -- pretty -- I mean 18 based on my recollection I think it was 19 pretty common negative inventories for 20 the cage and the vault product. 21 Q. Mm-hmm. And then so the 22 vault products, those were the Schedule 23 IIs, correct? 24 A. Yes.</p>	<p style="text-align: right;">Page 41</p> <p>1 as you move up that number, the lesser 2 control it has. Like Schedule V would be 3 children's NyQuil with codeine. It still 4 has the codeine in it so it has to be 5 categorized as a control. But has very 6 little potential for abuse because it's 7 in a lower quantity. 8 Q. Is it your opinion that 9 children's NyQuil with codeine does not 10 have a likelihood of abuse? 11 MR. NICHOLAS: Object to the 12 form. 13 Go ahead. 14 THE WITNESS: I would say 15 that it has less likelihood of 16 abuse than -- than some other 17 products, yeah. 18 BY MR. CLUFF: 19 Q. I'm going to circle back to 20 my question because you gave me a lot of 21 information. I'm not sure if -- if I 22 understand the answer to the answer to my 23 question. 24 You earlier testified that,</p>

<p style="text-align: right;">Page 42</p> <p>1 per federal regulations, the more 2 powerful the drug family the higher the 3 regulatory requirement. My question was, 4 what do you mean when you say the more 5 powerful the drug is it needs more 6 security. 7 What would you describe as a 8 more powerful effect that one drug has 9 versus another? 10 MR. NICHOLAS: Object to the 11 commentary before the question. 12 Go ahead. 13 THE WITNESS: Well, our DEA 14 categorizes these drugs. And they 15 determine the -- the higher 16 propensity for diversion and 17 abuse, and they are the ones that 18 basically set where they are to be 19 stored. 20 So we just follow those 21 regulations. I'm not a 22 pharmacist. I don't have, you 23 know, I don't have detailed 24 knowledge of -- of the actual</p>	<p style="text-align: right;">Page 44</p> <p>1 MR. NICHOLAS: Object to the 2 form. Go ahead. 3 THE WITNESS: Yes, I would 4 agree with that. 5 BY MR. CLUFF: 6 Q. Okay. So I'm just wondering 7 if in your head there's a connection 8 between a drug being more prone to 9 diversion and abuse and a drug being more 10 powerful? 11 MR. NICHOLAS: Object to the 12 form. 13 THE WITNESS: Not always. 14 BY MR. CLUFF: 15 Q. But sometimes? 16 A. Yes. 17 Q. Okay. So like the drugs in 18 Schedule II, you mentioned narcotics and 19 opium-based products, those are more 20 powerful than some drugs in Schedule III, 21 correct? 22 A. Yes. 23 Q. Okay. And based on your 24 testimony earlier, drugs in Category 2</p>
<p style="text-align: right;">Page 43</p> <p>1 chemical breakdown of those drugs, 2 so I would just leave it at that. 3 But the DEA pretty much sets 4 the requirements and we follow 5 that requirement. 6 BY MR. CLUFF: 7 Q. That makes sense. Okay. So 8 I just want to make sure I understand. 9 I'm not trying to rehash anything here. 10 Earlier you said more powerful, and then 11 I asked for a little more of an 12 explanation. And then you followed up 13 with this explanation that the DEA sets 14 these lists or categories. 15 Does that make sense at that 16 point? 17 MR. NICHOLAS: Object to the 18 form. 19 THE WITNESS: Yes. 20 BY MR. CLUFF: 21 Q. And that the -- that the 22 lists or categories are based on 23 likelihood of abuse and diversion. Did I 24 get that correct?</p>	<p style="text-align: right;">Page 45</p> <p>1 would be as determine -- would have been 2 determined by the DEA to be more prone to 3 diversion and abuse, correct? 4 MR. NICHOLAS: Object to the 5 form. 6 THE WITNESS: Well, they are 7 more powerful. Not all Schedule 8 IIs are as prone for abuse as -- 9 as other -- other Schedule IIs. 10 But I would say DEA makes those 11 determinations and we follow that 12 like I said. 13 BY MR. CLUFF: 14 Q. Okay. I'm confused though. 15 So you said that in your head there is a 16 connection between the power of a drug 17 and its -- its likelihood of diversion 18 and abuse, right? 19 A. Based on DEA. Because based 20 on DEA's findings and their -- and their 21 analysis of those drugs, yes. 22 Q. Okay. So then it's your -- 23 it's your opinion that the DEA has 24 categorized the more powerful drugs as</p>

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1 you've referred to them as drugs that are
2 more prone to diversion and abuse, right?
3 MR. NICHOLAS: Object to the
4 form.
5 THE WITNESS: Yes.
6 BY MR. CLUFF:
7 Q. Okay. And C-IIs are higher
8 than C-IIIs, right?
9 A. That's correct.
10 Q. Let me back up. I used an
11 abbreviation. I said C-II and C-III. If
12 I say C-II, do you understand that I'm
13 talking to Schedule II drugs, right?
14 A. Yes.
15 Q. And if I say C-III we are
16 talking about Schedule III drugs?
17 A. Yes.
18 Q. Okay. So C-IIs -- backing
19 up again -- they're more powerful than
20 C-III?
21 A. Yes, they are.
22 Q. So as a general category
23 they are more likelihood -- more likely
24 to be diverted and subject to abuse than

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1 C-III, right?
2 MR. NICHOLAS: Object to the
3 form.
4 THE WITNESS: Well, not
5 always. I mean, prometh with
6 codeine is a Schedule V, and it's
7 highly abused in the United
8 States, in many cases more so than
9 narcotics.
10 So I would say that the DEA
11 breaks down those drug categories,
12 and they tell us where we are
13 supposed to store them. So
14 generally the DEA considers them
15 more likely to be abused.
16 BY MR. CLUFF:
17 Q. Okay. Understood. So I
18 think we'd agree then that the higher you
19 go on the schedule, right, C-V, C-IV,
20 C-III, C-II, there's a higher likelihood
21 of abuse?
22 MR. NICHOLAS: Object to the
23 form.
24 THE WITNESS: I mean, I

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1 think that's what -- yes. That's
2 what DEA -- that's what DEA
3 determines.
4 BY MR. CLUFF:
5 Q. Okay. I think earlier you
6 talked about that AmerisourceBergen is
7 committed to -- and I don't want to put
8 words in your mouth. So if I get this
9 wrong, please help me understand -- is
10 committed to making sure that they follow
11 DEA direction regarding C-IIs and C-IIIs,
12 right?
13 A. I'm sorry. Can you restate
14 that?
15 Q. Sure. When we were talking
16 about how the DEA classifies drugs into
17 the schedules, right, Schedule I,
18 Schedule II, Schedule III, I recall you
19 answering to the effect that
20 AmerisourceBergen or ABDC is committed to
21 following DEA direction about the
22 classification of drugs, right?
23 A. We're committed to following
24 direction as per the regulation as to

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1 where they are stored.
2 Q. As to where they're stored.
3 Okay.
4 So then that means
5 AmerisourceBergen's commitment only
6 extends as far as the cages and the
7 vaults are concerned; is that right?
8 MR. NICHOLAS: Object to the
9 form.
10 THE WITNESS: Yes.
11 BY MR. CLUFF:
12 Q. All right. I'd like to go
13 back to the investigations for a second.
14 Do you recall any of the
15 outcome of these investigations that you
16 were transcribing?
17 A. No. I wasn't involved in
18 that at all.
19 Q. Do you know if Bergen
20 Brunswick ever uncovered any internal
21 thefts of C-II or C-III?
22 A. Based on my experience as a
23 regional director, yes, I can tell you
24 that we have identified internal thefts

<p style="text-align: right;">Page 50</p> <p>1 and we have -- we have -- through the 2 investigation, we identified who -- who 3 the theft was happening -- or who was 4 conducting the theft. 5 Q. Okay. Maybe our -- maybe 6 our lines got crossed there, because you 7 answered about your experience as a 8 regional director. And you said that 9 you -- that we -- I'm using the "we" that 10 you used -- have identified thefts. Were 11 you answering about your current 12 responsibilities as a regional director 13 for ABC? 14 A. No. 15 Q. Oh, okay. So you were 16 talking about Bergen Brunswick at the 17 time? 18 A. Well, I'm not currently -- 19 I'm not currently regional director. 20 That was my previous role before I took 21 over diversion. 22 Q. Okay. 23 A. But you asked sort of a 24 broad question. So, yes, we have as a</p>	<p style="text-align: right;">Page 52</p> <p>1 specific investigations about thefts of 2 prescription opioids? 3 A. Yes. That was a -- that was 4 a category of drug that we conducted 5 investigations on. 6 Q. Okay. What is your earliest 7 recollection of an investigation of a 8 theft of a prescription opioid? 9 A. I don't remember. 10 Q. Okay. You worked for the 11 company for 22 years. Would you have 12 become aware of an investigation 13 regarding the theft of prescription 14 opioids when you were transcribing 15 investigations between -- or after '98? 16 A. Yes. I mean, that's -- 17 that's when I would have been exposed to 18 those kinds of investigations. 19 Q. Okay. So that's maybe a 20 reasonable beginning point on when you 21 became aware of investigations, correct? 22 A. Yes. 23 Q. Do you know when 24 prescription opioids first hit the</p>
<p style="text-align: right;">Page 51</p> <p>1 company identified internal thefts. 2 Q. Okay. What was stolen? If 3 you want to categorize what's been stolen 4 I'm okay with that. 5 MR. NICHOLAS: Object to the 6 form. 7 THE WITNESS: I mean over 8 the course of 22 years, the 9 various drugs, I couldn't give you 10 specifics. 11 Everywhere -- everything 12 from non-controlled prescription 13 drugs like Viagra to controlled 14 substances in all categories. 15 BY MR. CLUFF: 16 Q. Okay. What kinds of 17 controlled substances were stolen? 18 A. Like I said, all categories. 19 Q. Anabolic steroids? 20 A. All categories. I don't 21 recall specific investigation for a theft 22 of anabolic steroids. But I wouldn't be 23 surprised if it happened. 24 Q. Okay. Do you recall any</p>	<p style="text-align: right;">Page 53</p> <p>1 market? And by the market, I mean to be 2 written for use by everyday consumers. 3 A. No. 4 Q. If I told you that OxyContin 5 was first approved for use in 1999, would 6 that jog your recollection? 7 A. No. 8 Q. Okay. Do you recall 9 investigations about prescription opioids 10 anytime after 2000? 11 A. Yes. I was exposed to 12 investigations post 2000 time frame. 13 Q. Okay. When would that have 14 been? 15 A. Post 2000. 16 Q. Okay. Coming back to your 17 responsibilities today as a director for 18 ABC, when is the most recent 19 investigation that you can recall 20 regarding the theft of a prescription 21 opioid? 22 A. In my current role, we don't 23 conduct investigations of internal 24 thefts. That's handled by a different</p>

<p style="text-align: right;">Page 54</p> <p>1 team. 2 Q. Sure. That's fair. It's 3 not the question I asked you though. I 4 asked you when was the most recent 5 investigation that you were aware of? 6 MR. NICHOLAS: Object to the 7 form and the commentary. No need 8 for that. 9 Go ahead. 10 THE WITNESS: I don't 11 recall. 12 BY MR. CLUFF: 13 Q. Anytime in the last year? 14 A. My job is extremely busy. 15 And it takes up all of my time. So I 16 really don't pay attention to internal 17 thefts. If that comes up, it's 18 transferred to a different team. My job 19 is to operate and run the diversion 20 program. I don't really get involved in 21 internal thefts at our distribution 22 center level. 23 Q. So internal thefts are not 24 investigated as part of the diversion</p>	<p style="text-align: right;">Page 56</p> <p>1 if internal theft is considered a 2 component of the overall diversion 3 control program. It might touch 4 on that. But it's certainly not 5 something that my team handles 6 directly. 7 BY MR. CLUFF: 8 Q. Okay. All right. So it 9 sounds like the investigations thing is 10 pretty well outside your area of 11 expertise. Would you agree with that? 12 A. At this time, yes. 13 Q. Okay. So you said that you 14 typed up these investigations for six 15 months. Was that still in California? 16 A. Yes. 17 Q. And that was at the Orange, 18 the City of Orange address, right? 19 A. Correct. 20 Q. Okay. And then you made a 21 comment earlier that while you were doing 22 that, you got noticed by the executives. 23 Did I get that right? 24 A. Yes.</p>
<p style="text-align: right;">Page 55</p> <p>1 program? 2 MR. NICHOLAS: Object to the 3 form. 4 THE WITNESS: Not by my 5 team. 6 BY MR. CLUFF: 7 Q. Whose team investigates 8 them? 9 A. It would be probably a joint 10 effort between the regulatory team and 11 the investigative team. 12 Q. Okay. And who, who are 13 responsible for those teams? 14 A. Steve Mays for regulatory 15 and Bruce Gundy for investigations. 16 Q. So those two teams would be 17 investigating internal thefts, correct? 18 A. That's correct. 19 Q. Okay. Is that part of 20 AmerisourceBergen's diversion control 21 program? 22 MR. NICHOLAS: Object to the 23 form. 24 THE WITNESS: I can't recall</p>	<p style="text-align: right;">Page 57</p> <p>1 Q. Okay. Who would the 2 executives have been and what did they 3 notice? 4 MR. NICHOLAS: Object to the 5 form. 6 THE WITNESS: They noticed 7 that I broke -- that I was pretty 8 good at English, and I was able to 9 break down the -- the interview 10 interrogations into paragraphs. I 11 was able to break -- break the 12 grammar down properly in the 13 interrogation report that I 14 transcribed. So basically, they 15 just noticed the reports that I 16 was generating for them. 17 BY MR. CLUFF: 18 Q. And who would the executives 19 have been? 20 A. Chris Zimmerman and the 21 investigators that I was conducting the 22 transcriptions for. 23 Q. Who would the investigators 24 have been?</p>

<p style="text-align: right;">Page 58</p> <p>1 A. John Bruce, John Gibson, 2 Greg Madsen. There might have been more, 3 but that's the three that come to mind. 4 Q. When you were doing these -- 5 the transcriptions, were you still a 6 security officer? 7 A. Yes. 8 Q. Who were you reporting to at 9 that time? 10 A. Leo Schmock. 11 Q. Can you spell that for me? 12 A. Leo, L-E-O. Schmock, 13 S-C-H-M-O-C-K, I believe. 14 Q. That was between '96 and 15 roughly the middle of 1998, correct? 16 A. Yes. 17 Q. All right. And do you know 18 what Leo Schmock's position was? 19 A. I think it evolved, but when 20 I was hired I believe he was the manager 21 of security services. 22 Q. And after you got noticed by 23 the executives, was there a change in 24 your job responsibilities?</p>	<p style="text-align: right;">Page 60</p> <p>1 governmental subpoenas? 2 A. Yes. 3 Q. Okay. What kind of 4 information requests would you be 5 receiving? 6 A. It varied. Across the board 7 mostly sales requests, request for sales 8 data from our customers. But it -- it 9 was on various subject matters. 10 Q. What kind of information 11 were you providing to state and federal 12 agencies? 13 A. Sales reports and other -- 14 other information, per the subpoena. 15 Like I said they pretty much -- the 16 subpoenas that we received, you know, 17 were on an array of subject matters. 18 Q. Okay. How long did you work 19 in this department? 20 A. I worked there until the 21 merger in 2001. 22 Q. But your responsibilities in 23 that department, would you agree with me, 24 had no diversion control overlap at all,</p>
<p style="text-align: right;">Page 59</p> <p>1 A. Yes. 2 Q. What was the change? 3 A. I was moved upstairs. And I 4 was given the responsibility of taking 5 over subpoenas, information requests from 6 state and federal agencies, as well as 7 licensing. 8 Q. Subpoenas, information 9 requests from state and federal agencies 10 and licensing. Okay. 11 And what department was that 12 that you were involved in then? 13 A. I don't remember exactly 14 what -- what our department was called 15 under Bergen. 16 Q. Okay. And who were you 17 reporting to at that time? 18 A. I believe I was reporting 19 to -- directly to Chris Zimmerman. 20 Q. And so you would be 21 assisting the company in responding to 22 subpoenas? 23 A. Correct. 24 Q. And were those civil and</p>	<p style="text-align: right;">Page 61</p> <p>1 right? 2 MR. NICHOLAS: Object to the 3 form. 4 THE WITNESS: That's 5 correct. 6 BY MR. CLUFF: 7 Q. Okay. So you said there was 8 a merger in 2001? 9 A. Yes. 10 Q. Okay. And that was between 11 Bergen Brunswick and who? 12 A. Amerisource Health. 13 Q. Was there any change in your 14 responsibilities at the time of the 15 merger? 16 A. Yes. 17 Q. And what was that? 18 A. I was relocated from Orange, 19 California, to Chesterbrook, 20 Pennsylvania, and I continued to conduct 21 the licensing and information requests 22 for a period of time, but -- but shortly 23 thereafter I took over the east region as 24 a regulatory manager.</p>

<p style="text-align: right;">Page 62</p> <p>1 Q. Okay. Did you have a job 2 title when you were in the department 3 that handled the subpoenas and other 4 information requests? 5 A. I did. I don't recall what 6 it was though. 7 Q. Okay. And what years would 8 you have been working in that group, you 9 said it was 1998 to 2001? 10 A. Roughly. 11 Q. Okay. And that was -- that 12 was the job you held before the merger, 13 right? 14 A. Yes. 15 Q. Okay. Did you have any 16 other job responsibilities during that 17 time? 18 A. We were asked to do -- 19 conduct, you know, duties, you know, on 20 various different -- on various subject 21 matters. But I think that's pretty much 22 what all my responsibilities entailed. 23 That pretty much took all my time. I was 24 busy. I was one person doing subpoena</p>	<p style="text-align: right;">Page 64</p> <p>1 to manager of regulatory compliance. 2 Either manager or supervisor. I can't 3 remember what the exact title was. 4 Q. Okay. So prior to the 5 merger, you don't recall having a job 6 title. Or you just don't recall what it 7 was. 8 A. I had a title. I just don't 9 recall what it was. 10 Q. Okay. And you were working 11 in information requests essentially, 12 right? 13 A. And licensing was a big part 14 of my job as well. 15 Q. What do you mean by 16 licensing? 17 A. So I -- I coordinated all 18 licensing for each of our distribution 19 centers. So we had, I believe, 26 20 distribution centers on the Bergen side 21 and I handled that up to the merger. And 22 then post merger we picked up another 26 23 distribution centers, I believe, that 24 Amerisource had, for a total of 52</p>
<p style="text-align: right;">Page 63</p> <p>1 information requests and handling 2 licensing for all their distribution 3 centers. That took up -- that took up 4 almost all my time. 5 Q. Okay. That's fine. And 6 then you said after the merger you were 7 relocated from Orange County, California, 8 to Chesterbrook, Pennsylvania, right? 9 A. Yes. 10 Q. Okay. And you said you 11 continued to conduct the licensing and 12 information requests? 13 A. For a period of time, yes. 14 Q. Okay. Do you remember if 15 the department you were working in at 16 that time after the merger had a name? 17 A. Yeah. Post merger we became 18 the corporate security regulatory affairs 19 department. 20 Q. And did you have a job title 21 when you switched over to the new 22 company? 23 A. At that time, I think I 24 stated before, I think they switched me</p>	<p style="text-align: right;">Page 65</p> <p>1 distribution centers. So I was 2 responsible for bringing those divisions 3 together, conducting name changes on the 4 licensing, and a lot of other related 5 work, related to that merger. 6 There was a lot of work that 7 was involved when you merge two 8 distribution centers from two different 9 companies. So I was involved with that 10 for probably the first six months to a 11 year after the merger. And that was -- 12 that was the reason, because I was pretty 13 much the licensing expert for our -- for 14 our company, Bergen Brunswick, and so I 15 coordinated all that. 16 Q. So it sounds like you -- you 17 bled between two time periods there. I 18 just want to make sure I understand what 19 we were talking about. 20 So from '98 to 2001, when 21 the company was Bergen Brunswick, in 22 addition to the information requests that 23 you handled, you also managed the 24 licensing for all 26 of Bergen</p>

<p style="text-align: right;">Page 66</p> <p>1 Brunswick's distribution centers, right?</p> <p>2 A. That's correct.</p> <p>3 Q. Okay. And what did that</p> <p>4 entail?</p> <p>5 A. Renewing the -- the DEA</p> <p>6 registrations. I was responsible for</p> <p>7 bringing Bergen Brunswick distribution</p> <p>8 centers into a batch renewal, which was a</p> <p>9 new project that the DEA rolled out in</p> <p>10 that time frame.</p> <p>11 And also all the state</p> <p>12 licenses that the distribution centers --</p> <p>13 each distribution center held a number of</p> <p>14 state licenses, maybe, you know, five to</p> <p>15 ten state licenses that they distributed</p> <p>16 into. So -- so basically, all licenses</p> <p>17 that the distribution centers held,</p> <p>18 federal and state.</p> <p>19 Q. Okay. And in your job</p> <p>20 responsibilities where you were handling</p> <p>21 the information requests and the</p> <p>22 licensing of distribution centers, you</p> <p>23 reported directly to Chris Zimmerman?</p> <p>24 A. I don't recall who I</p>	<p style="text-align: right;">Page 68</p> <p>1 occurred, there was a combination of</p> <p>2 Bergen Brunswick's distribution centers</p> <p>3 and Amerisource Health's distribution</p> <p>4 centers, correct?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. And you were</p> <p>7 responsible for integrating the licensing</p> <p>8 of those two groups of distribution</p> <p>9 centers?</p> <p>10 A. That's correct.</p> <p>11 Q. All right. And that was</p> <p>12 part of your responsibility as either the</p> <p>13 manager or supervisor of regulatory</p> <p>14 compliance?</p> <p>15 A. No. I wasn't -- I don't</p> <p>16 think it was included in that -- in that</p> <p>17 job title. But I kept -- I kept that</p> <p>18 previous responsibility for a period of</p> <p>19 time, then it was subsequently</p> <p>20 transferred to a member of the legal</p> <p>21 department after -- after I took over my</p> <p>22 new role as -- I believe it was</p> <p>23 supervisor of regulatory compliance.</p> <p>24 Q. Okay. So you handled the</p>
<p style="text-align: right;">Page 67</p> <p>1 reported to post merger, but at some</p> <p>2 point I transferred to Steve Mays.</p> <p>3 Q. I'm talking about</p> <p>4 pre-merger. I'm sorry.</p> <p>5 A. I'm sorry. Pre-merger I</p> <p>6 believe I was reporting directly to Chris</p> <p>7 Zimmerman for that entire period.</p> <p>8 Q. Understood. So in 2001 the</p> <p>9 merger happened, correct?</p> <p>10 A. Correct.</p> <p>11 Q. And then Bergen Brunswick</p> <p>12 merged with Amerisource Health, right?</p> <p>13 A. Correct.</p> <p>14 Q. Do you know what the name of</p> <p>15 that entity was?</p> <p>16 A. The post merger name?</p> <p>17 Q. Yeah.</p> <p>18 A. That is when</p> <p>19 AmerisourceBergen Corporation was</p> <p>20 created.</p> <p>21 Q. Okay. So that is the</p> <p>22 beginning of ABC then?</p> <p>23 A. That's correct.</p> <p>24 Q. And when the merger</p>	<p style="text-align: right;">Page 69</p> <p>1 licensing until it moved to legal,</p> <p>2 correct?</p> <p>3 A. Yes.</p> <p>4 Q. Do you recall when that was?</p> <p>5 A. No. I think it was -- it</p> <p>6 was post -- obviously it was post 2001.</p> <p>7 I think it took us about a year to</p> <p>8 transfer the licenses to the new name.</p> <p>9 Q. Okay. So at the time of the</p> <p>10 merger I think you referenced that a new</p> <p>11 department in ABC was created called the</p> <p>12 corporate security and regulatory affairs</p> <p>13 department, correct?</p> <p>14 A. That's correct.</p> <p>15 Q. Did an entity similar to</p> <p>16 that exist at Bergen Brunswick prior to</p> <p>17 the merger?</p> <p>18 A. Yes.</p> <p>19 Q. And what was that called?</p> <p>20 A. Yeah, that was what I don't</p> <p>21 recall.</p> <p>22 Q. Got it. Do you know if an</p> <p>23 entity like that existed at Amerisource</p> <p>24 Health prior to the merger?</p>

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1 A. Yes, it did.
2 Q. Okay. Do you know what that
3 was called?
4 A. No, I don't recall that
5 either.
6 Q. But out of the merger came
7 the CSRA, correct?
8 A. That's correct.
9 Q. All right. And you became a
10 supervisor of compliance?
11 A. I think it was the
12 supervisor of regulatory compliance, yes.
13 Q. And what were your
14 responsibilities as a supervisor of
15 regulatory compliance?
16 A. I was assigned the east
17 region. So I basically was responsible
18 for all regulatory and security
19 requirements for my distribution centers.
20 And I also conducted audits of my
21 distribution centers, as well as
22 distribution centers outside of my
23 region.
24 Q. What -- what states were in

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1 the east region if you can recall?
2 A. The breakdown of each region
3 has shifted over the -- over that period
4 of time. So I don't recall what the
5 region consisted of when I was initially
6 assigned it.
7 Q. What was involved in being
8 responsible for regulatory requirements
9 for your distribution centers?
10 A. Basically all of security
11 requirements. We also conducted OSHA
12 audits. So it really entailed everything
13 the DEA would do if they came into our
14 distribution center and conducted an
15 audit. And so we would basically oversee
16 all of the state and federal requirements
17 from a regulatory and security
18 standpoint. And we would conduct an
19 audit and we would just do internal
20 audits and -- and we would correct any
21 deficiencies that we identified.
22 Q. What time period were you
23 employed as the regulatory compliance
24 supervisor?

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1 A. I don't recall the exact
2 dates.
3 Q. Can you give me a ballpark
4 on how long you were that -- were in that
5 position?
6 A. Well, the regions changed
7 and shifted over time, and my title
8 shifted over time. But I basically held
9 that general responsibility from
10 approximately 2002 until 2015.
11 Q. Okay. Can you name any
12 states that were in the east region in
13 2001?
14 A. Pretty much as far northeast
15 as you can go. Maine, Massachusetts,
16 Rhode Island, New York, Rhode Island, New
17 Jersey, Pennsylvania, certainly North
18 Carolina.
19 Q. How about Florida?
20 A. No, I don't believe that was
21 included. That was part of the south
22 region I believe.
23 Q. South region.
24 What about Ohio?

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1 A. I don't recall.
2 Q. How many regions were there
3 at the time?
4 A. That also shifted over time.
5 Q. How about in 2001? How many
6 regions were there?
7 A. I don't recall.
8 Q. Okay. How many regions are
9 there today?
10 A. Again, it's outside of my
11 area. I believe there's four regions.
12 But I could be -- I could be mistaken.
13 Again, it's not really something that I
14 focus on in my current responsibilities.
15 Q. Were there ever more than
16 four regions?
17 A. I believe there was five at
18 one time.
19 Q. So at some point there may
20 have been five. Now there are four?
21 A. I'm not sure about that.
22 But I think that may be accurate.
23 Q. Okay. Do you know who was
24 responsible for the south region in 2001?

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1 A. No.
2 Q. Do you know who would know
3 that information?
4 MR. NICHOLAS: Object to the
5 form.
6 Go ahead.
7 THE WITNESS: I'm sure it's
8 in our files. I'm sure that --
9 I'm sure we could find it in our
10 documentation. Steve Mays would
11 know I think.
12 BY MR. CLUFF:
13 Q. Do you know if Steve Mays
14 was responsible for the Florida -- for
15 the south region in 2001?
16 A. No. When I took over the
17 east region, he was the director that I
18 reported to. So he wouldn't have been
19 directly responsible for the south
20 region.
21 Q. Do you know how many
22 distribution centers there were in the
23 east region when you took over
24 responsibility for it?

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1 A. No, I don't recall that.
2 Q. Do you remember the names of
3 any of the distribution centers that you
4 were responsible for?
5 A. I know some of them.
6 Q. Which ones?
7 A. Thorofare, New Jersey;
8 Mansfield, Massachusetts; Bethlehem came
9 on after I took over that region. It's
10 changed -- it shifted so many times in
11 that -- in that multiple-year period. I
12 just don't recall.
13 Q. I want to go back to your
14 job responsibilities. You said you were
15 in charge of regulatory and security and
16 then audits. Did I get that right, as
17 the supervisor of regulatory compliance?
18 A. Yes.
19 Q. Okay. So what did it mean
20 to be in charge of regulatory compliance
21 for the distribution centers?
22 A. Well, as I stated, we
23 oversaw all state and federal
24 requirements from a security and

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1 regulatory standpoint and audited for
2 that.
3 Q. So that -- does that mean
4 that you were essentially responsible for
5 the cages and the vaults?
6 A. We had on-site management
7 that were responsible for day-to-day
8 functionality. But I would go in
9 periodically and audit, you know, for the
10 federal requirements and the state
11 requirements for their day-to-day
12 operations.
13 Q. Which kind of requirements
14 for day-to-day operations were you
15 auditing?
16 A. Ensuring the inventories
17 were conducted properly. We keep
18 perpetual inventories for our controlled
19 substances to ensure that there's no
20 daily or internal theft. Again, we did
21 OSHA audits. We would ensure that proper
22 training was conducted. We could ensure
23 that the procedures were being followed
24 with regards to shipment and receiving of

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1 controlled substances and prescription
2 drugs, and similar requirements that we
3 maintained.
4 Q. What do you mean by ensuring
5 that the procedures were being followed
6 with regard to shipments and receiving
7 controlled substances and prescription
8 drugs?
9 A. Well, our distribution
10 centers have a lot of internal
11 requirements with regard to shipment of
12 controlled substances.
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]

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1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 Q. Sounds like those are about
17 the security of the product, though,
18 correct?
19 A. Yes.
20 Q. Okay. So what you were
21 auditing as the supervisor of the
22 regulatory compliance -- as a supervisor
23 of the regulatory compliance was really
24 just about, is the distribution center

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1 following the security regulations for
2 controlled substances in the distribution
3 center, correct?
4 MR. NICHOLAS: Object to the
5 form.
6 THE WITNESS: Not just
7 security. Regulatory as well. I
8 mean, most of our distribution
9 centers back then were using paper
10 222 forms for shipment and
11 receiving of narcotics.
12 So there's a whole array of
13 federal requirements on a
14 regulatory standpoint that we had
15 to ensure that the distribution
16 centers were following as well.
17 Not all of that specifically
18 covers security. There's a lot of
19 regulatory requirements that we're
20 required to follow as a
21 wholesaler.
22 BY MR. CLUFF:
23 Q. Like what?
24 A. 222 forms, making sure that

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1 they're properly completed. Receiving of
2 narcotics, we have to make sure that
3 those -- those forms are completed
4 properly.
5 Customer returns, we have to
6 look at the product and make sure that
7 the product, you know, wasn't opened.
8 There was a lot of OSHA
9 requirements that we followed from a
10 security -- safety standpoint.
11 There's a lot of -- there's
12 a lot of state requirements that we have
13 to follow for prescription drugs as well
14 since that is not on a federal
15 jurisdiction. That's more state
16 jurisdiction.
17 So there's a whole array of
18 state-specific regulations that we also
19 have to follow with regard to
20 prescription drugs. So we have a very
21 long audit checklist that we follow at
22 that level.
23 So it takes about a full
24 week to conduct those audits. There's a

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1 lot of requirements that we have to
2 follow.
3 Q. So you talked about a number
4 of different regulatory requirements. Is
5 that all of the regulatory requirements
6 that you were overseeing as a supervisor
7 at that point in time?
8 MR. NICHOLAS: Object to the
9 form.
10 THE WITNESS: Yeah, during
11 that period of time, we audited to
12 ensure the distribution centers
13 were following all state and
14 federal regulations.
15 BY MR. CLUFF:
16 Q. Okay. At that -- you said
17 during that period of time. So when you
18 say that period of time, you mean from
19 approximately 2001 until when?
20 A. Until I was transferred to
21 diversion in 2015.
22 Q. So in 2015 is the first time
23 that you start doing any diversion work?
24 MR. NICHOLAS: Object to the

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1 form.
2 THE WITNESS: Yes.
3 BY MR. CLUFF:
4 Q. Okay. So at the
5 distribution centers, when you were the
6 supervisor, your only focus is the
7 regulatory requirements that you've
8 described to me so far?
9 A. Well, I --
10 MR. NICHOLAS: Object to the
11 form.
12 THE WITNESS: I didn't
13 describe all the requirements. I
14 gave you an overview of a lot of
15 requirements. But I said there
16 was a lot of other related
17 responsibilities that we audited
18 for.
19 BY MR. CLUFF:
20 Q. Okay. Are there any other
21 regulatory requirements that are more
22 important than the ones you've described
23 to me?
24 MR. NICHOLAS: Object to the

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1 form.
2 THE WITNESS: I wouldn't
3 put -- I wouldn't categorize
4 regulatory requirements as
5 important and non-important.
6 They're all important.
7 BY MR. CLUFF:
8 Q. Are there any additional
9 regulatory requirements that stand out to
10 you that you haven't described to me yet?
11 A. There could be. None that
12 come to mind right now.
13 MR. CLUFF: Why don't we
14 take a quick break. We've been
15 going about an hour. We can all
16 stretch our legs and we'll come
17 back and pick up again, like five,
18 10 minutes.
19 THE VIDEOGRAPHER: Going off
20 the record. 10:49 a.m.
21 (Short break.)
22 THE VIDEOGRAPHER: Back on
23 record at 11:15 a.m.
24 BY MR. CLUFF:

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1 Q. Mr. Cherveney, you understand
2 that you're still under oath, right?
3 A. Yes.
4 Q. Okay. Great.
5 When we broke last time, we
6 were talking about your responsibilities
7 as the supervisor of regulatory
8 compliance at the newly formed ABC
9 entity, correct?
10 A. Yes.
11 Q. Okay. You said that you
12 held that position from approximately
13 2001-2002 to 2015?
14 A. Correct.
15 Q. Okay. And when you first
16 stepped into that role, you were
17 responsible for the east region, correct?
18 A. Correct.
19 Q. Okay. And did your
20 responsibilities ever increase as a
21 supervisor of regulatory compliance at
22 any time between 2002 and 2015?
23 A. No.
24 Q. So you essentially held the

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1 same job for 13 years?
2 A. Correct.
3 Q. And during that entire time,
4 you were responsible for a region of
5 AmerisourceBergen's distribution centers?
6 A. Correct.
7 Q. And those responsibilities
8 covered all things related to regulatory
9 compliance and security compliance and
10 audits?
11 MR. NICHOLAS: Is that -- is
12 it a question?
13 BY MR. CLUFF:
14 Q. Did I get that right?
15 A. Well, we would audit
16 according to the audit checklist. But,
17 yes, it entailed security and regulatory
18 compliance.
19 Q. So you were responsible for
20 regulatory and security compliance. And
21 then as part of that responsibility, you
22 would audit the distribution centers,
23 correct?
24 A. Correct.

<p style="text-align: right;">Page 86</p> <p>1 Q. Okay. So as the person who 2 was overseeing the regulatory and 3 security compliance, you had to have, I'm 4 assuming, a very thorough understanding 5 of the regulatory requirements for the 6 distribution centers, correct? 7 MR. NICHOLAS: Object to the 8 form. 9 THE WITNESS: Yes, I had an 10 understanding of the regulations. 11 BY MR. CLUFF: 12 Q. And where do those 13 regulations come from? 14 MR. NICHOLAS: Object to the 15 form. 16 THE WITNESS: Depending on 17 the jurisdiction, state and 18 federal. 19 BY MR. CLUFF: 20 Q. Okay. And for the federal 21 jurisdiction, what is the -- is there a 22 governing statute? 23 MR. NICHOLAS: Object to the 24 form.</p>	<p style="text-align: right;">Page 88</p> <p>1 that the -- it's the title that 2 the regulations that we follow are 3 basically under. 4 BY MR. CLUFF: 5 Q. Is the Controlled Substance 6 Act part of Title 21? 7 A. I'm not sure. 8 Q. Are you familiar with the 9 term "Code of Federal Regulations"? 10 A. Yes. 11 Q. What's your understanding of 12 the Code of Federal Regulations? 13 MR. NICHOLAS: Object to the 14 form. 15 THE WITNESS: The Code of 16 Federal Regulations is what the 17 DEA utilizes to -- to outline what 18 we're required to do from a 19 federal regulatory standpoint. 20 BY MR. CLUFF: 21 Q. Have you ever heard of the 22 Controlled Substances Act? 23 A. Yes. 24 Q. Where have you heard of it?</p>
<p style="text-align: right;">Page 87</p> <p>1 THE WITNESS: There are a 2 lot of regulations that -- that 3 apply to what we do as a 4 wholesaler. 5 BY MR. CLUFF: 6 Q. Okay. Is there a governing 7 statute? 8 A. I'm not sure what you mean 9 by governing statute. 10 Q. Okay. Is there a statute at 11 the federal level that creates the 12 regulatory requirements you're referring 13 to? 14 MR. NICHOLAS: Object to the 15 form. 16 THE WITNESS: I know there 17 was Title 21 that the regulations 18 are contained in. 19 BY MR. CLUFF: 20 Q. What's Title 21? 21 MR. NICHOLAS: Object to the 22 form. No lawyer. Go ahead. 23 THE WITNESS: It's the -- 24 it's the regulation that the --</p>	<p style="text-align: right;">Page 89</p> <p>1 A. I don't recall. 2 Q. You don't recall. 3 You understand that 4 AmerisourceBergen sells controlled 5 substances, right? 6 A. Yes. 7 Q. And you don't recall when 8 you've heard the term "Controlled 9 Substances Act" before? 10 A. I don't recall the initial 11 time that I heard that. 12 Q. Is it something that you're 13 familiar with in your work though? 14 A. More of its existence, yes. 15 Q. So from 2002 to 2015, you 16 described the regulatory and security 17 compliance responsibilities as 18 essentially making sure that the 19 regulations regarding vault security and 20 cage security were being followed, 21 correct? 22 MR. NICHOLAS: Object to the 23 form. 24 THE WITNESS: Correct.</p>

<p style="text-align: right;">Page 90</p> <p>1 BY MR. CLUFF:</p> <p>2 Q. Okay. You also mentioned</p> <p>3 Form 222; is that right?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. What's a Form 222?</p> <p>6 A. It's a narcotic order form.</p> <p>7 Q. And what was your regulatory</p> <p>8 compliance responsibility regarding order</p> <p>9 forms?</p> <p>10 MR. NICHOLAS: Object to the</p> <p>11 form. Go ahead.</p> <p>12 THE WITNESS: We would -- we</p> <p>13 would review a number of 222 forms</p> <p>14 as part of the audit.</p> <p>15 BY MR. CLUFF:</p> <p>16 Q. So you weren't doing</p> <p>17 anything with them on a daily basis. You</p> <p>18 interacted with them while you were</p> <p>19 auditing distribution centers?</p> <p>20 A. I'm not sure what you mean</p> <p>21 by interacted with them.</p> <p>22 Q. Did you ever fill out a</p> <p>23 Form 222?</p> <p>24 A. Never.</p>	<p style="text-align: right;">Page 92</p> <p>1 responsibilities. I'm just trying to</p> <p>2 make sure I understand what you've</p> <p>3 explained to me as being the scope of</p> <p>4 your duties. Does that make sense?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. So again, we talked</p> <p>7 about the vault and cage security,</p> <p>8 Form 222, and now I'm asking about</p> <p>9 physical security at the distribution</p> <p>10 centers. That was another area of your</p> <p>11 responsibility?</p> <p>12 A. Yeah, to audit for that.</p> <p>13 Q. To audit for that.</p> <p>14 A. Yes.</p> <p>15 Q. So you were not in charge of</p> <p>16 security. You just audited security?</p> <p>17 A. Well, I audited the</p> <p>18 distribution centers. The compliance</p> <p>19 manager reported to me and they were</p> <p>20 responsible for it, for the distribution</p> <p>21 centers within my region.</p> <p>22 Q. And I also recall that --</p> <p>23 that you were responsible for auditing</p> <p>24 receipts of shipments and shipments that</p>
<p style="text-align: right;">Page 91</p> <p>1 Q. Except for when you were</p> <p>2 conducting an audit, were you ever</p> <p>3 required to review Form 222s?</p> <p>4 A. Yes, we reviewed Form 222</p> <p>5 forms.</p> <p>6 Q. As a part of audits or as</p> <p>7 part of your regular responsibilities?</p> <p>8 A. As part of the audit.</p> <p>9 Q. Okay. Aside from vault and</p> <p>10 cage security, and Form 222s, I think you</p> <p>11 also mentioned just like physical</p> <p>12 security of -- physical security of the</p> <p>13 distribution centers. Did I get -- is</p> <p>14 that correct?</p> <p>15 MR. NICHOLAS: Object to the</p> <p>16 form.</p> <p>17 Are you talking about</p> <p>18 throughout his entire testimony or</p> <p>19 just --</p> <p>20 BY MR. CLUFF:</p> <p>21 Q. From 2002 to 2015 when you</p> <p>22 were the supervisor of regulatory</p> <p>23 compliance, I'm just trying to understand</p> <p>24 the scope of your regulatory compliance</p>	<p style="text-align: right;">Page 93</p> <p>1 went out to customers, right?</p> <p>2 A. That procedures were</p> <p>3 followed regarding those operations, yes.</p> <p>4 Q. What procedures were you</p> <p>5 auditing?</p> <p>6 A. There's various procedures.</p> <p>7 Q. Can you describe some to me?</p> <p>8 A. As I stated before, receipts</p> <p>9 of controlled substances have to be</p> <p>10 identified upon receipt. They have to be</p> <p>11 verified and they have to be maintained</p> <p>12 under constant supervision. There's</p> <p>13 multiple requirements we had internally</p> <p>14 that I don't have in front of me. So</p> <p>15 that's just the basic requirements that</p> <p>16 they have.</p> <p>17 Q. You were the guy that was</p> <p>18 responsible for auditing these practices,</p> <p>19 right?</p> <p>20 MR. NICHOLAS: Object to the</p> <p>21 form. Go ahead.</p> <p>22 THE WITNESS: Yes.</p> <p>23 BY MR. CLUFF:</p> <p>24 Q. So I'm just trying to</p>

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1 understand what you know about the
2 procedures that you were auditing. Does
3 that make sense?
4 MR. NICHOLAS: Object to the
5 form.
6 THE WITNESS: Yes.
7 BY MR. CLUFF:
8 Q. Okay. So you said shipments
9 and receipts. So you audited the
10 procedures to make sure they were being
11 followed, correct?
12 A. Yes.
13 Q. Okay. And then I believe
14 another area that you talked about
15 auditing was order filling; is that
16 correct?
17 A. Well, order filling was,
18 yeah, the -- the process of -- of filling
19 an order that's going to be shipped. So
20 we had limited responsibility. That was
21 mostly operations. But there were some
22 things that tied to regulatory.
23 Q. Okay. So you would have
24 audited the regulatory compliance of the

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1 order-filling process, essentially making
2 sure that the pills that were on the
3 shelves in the vaults or the -- the
4 cages, got onto the order pallet
5 correctly and got to the customer, right?
6 A. Yeah, in accordance with our
7 internal policy.
8 Q. Okay. What internal policy
9 was that?
10 A. Policies and procedures with
11 regard to regulatory compliance.
12 Q. Can you describe what the
13 policy or procedure was around filling an
14 order out of the cages or vaults?
15 A. It was so long ago, I
16 wouldn't feel comfortable talking about
17 the regulation without it being in front
18 of me.
19 Q. Would you --
20 A. Or the policy rather.
21 Q. You were in charge of
22 auditing that policy between 2002 and
23 2015, correct?
24 A. Yes.

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1 Q. So you worked with that
2 policy for 13 years?
3 A. Yes, I did.
4 Q. And you can't recall it?
5 MR. NICHOLAS: Object to the
6 form.
7 BY MR. CLUFF:
8 Q. You can answer my question.
9 A. I recall it in a general
10 sense, but without having that in front
11 of me, those policies evolve over time.
12 So I wouldn't feel comfortable, you know,
13 discussing that as it might not be the
14 same as it was when I was doing it. Plus
15 it was years ago.
16 Q. It was three years ago,
17 correct?
18 A. Yes.
19 Q. I'm entitled to understand
20 your general sense of it that you just
21 testified to having. So please explain
22 to me your general sense of that policy
23 and procedure.
24 A. With regards to what

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1 specific operation?
2 Q. The filling of orders out of
3 the cages and vaults.
4 A. So the -- the cage and the
5 vault has order fillers that -- that --
6 whose responsibility is that they -- that
7 they take the product, they put them in
8 the totes according to customer orders.
9 And depending on if it's cage or vault,
10 they will -- they'll fill the order.
11 There's, in some cases, a double-check to
12 make sure that the order is accurate.
13 And then at some point those orders get
14 strapped and transferred to the shipping
15 dock for shipment. There's a lot of
16 internal components to that.
17 Q. Sure. So as the supervisor
18 of regulatory compliance, your job was to
19 make sure that the distribution center
20 employees were going through that process
21 correctly, right?
22 A. Correct.
23 Q. Okay. So I've got this list
24 down. You let me know if there's

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1 anything else you want to add to it.
2 As the supervisor of
3 regulatory compliance, your
4 responsibility was to essentially ensure
5 that the distribution centers were
6 following all of the regulations, the
7 regulatory regulations that govern the
8 distribution of controlled substances,
9 right?
10 MR. NICHOLAS: I'm going to
11 object to the form. Are you
12 reading him a list or what?
13 MR. CLUFF: I'm asking him a
14 question, Bob.
15 MR. NICHOLAS: Right.
16 Object to the form. Go
17 ahead.
18 THE WITNESS: I mean, we --
19 we followed our internal policies
20 and procedures and we had an audit
21 checklist that was, I think,
22 spanned over 200 questions and
23 multiple sections. So what I've
24 covered here is just a general

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1 overview. But, you know, without
2 having that audit checklist in
3 front of me, I mean I can't really
4 determine that there's -- you
5 know, I haven't covered every
6 single component to the program.
7 BY MR. CLUFF:
8 Q. But some of the ones that
9 you've highlighted are vault and cage
10 security, correct, correct order forms,
11 physical security, shipping and receiving
12 controlled substances, and order filling.
13 Were there any other areas
14 of that audit checklist that you felt
15 were significant in your role as a
16 supervisor in relation to
17 AmerisourceBergen distributing controlled
18 substances?
19 MR. NICHOLAS: Object to the
20 form.
21 THE WITNESS: Yeah, there
22 were a lot of other components.
23 They were all -- they are all
24 significant.

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1 BY MR. CLUFF:
2 Q. So all 200 questions on that
3 form are significant?
4 MR. NICHOLAS: Object to the
5 form.
6 THE WITNESS: Yeah, I would
7 agree with that.
8 BY MR. CLUFF:
9 Q. But you can't recall what
10 they are today?
11 A. Well, there's return
12 procedures, there's PDMA requirements,
13 there's physical security. There's a
14 number of sections that we audited for.
15 Q. Physical security is one we
16 talked about already though, correct?
17 Okay.
18 What other internal
19 procedures were you auditing?
20 A. Other than what I've
21 covered?
22 Q. Yeah.
23 A. There were like -- there was
24 multiple sections that we covered.

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1 Q. What were some of the
2 sections?
3 A. Other than what I've
4 covered?
5 Q. Yes.
6 A. Well, diversion is one
7 section.
8 Q. What's diversion?
9 A. What do you mean by that
10 question, what's diversion? You want a
11 definition?
12 Q. I've been talking to you
13 about the audit that you performed on
14 distribution centers in your role as the
15 supervisor of the regulatory compliance
16 department, or supervisor of regulatory
17 compliance.
18 And we've gone through a
19 number of responsibilities that the
20 distribution centers had that you were
21 auditing. And we've gone through a list.
22 And I asked you if there were any others.
23 You then told me that diversion was one.
24 So it's the first time that

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1 I heard that word referred to in your job
2 responsibilities today. I'm asking you,
3 what is diversion?
4 MR. NICHOLAS: I'll object
5 to the form of the question.
6 MR. CLUFF: Do not coach
7 this witness.
8 MR. NICHOLAS: All I'm going
9 to do is object to the form of the
10 question.
11 Long speech before the
12 question.
13 Go ahead.
14 THE WITNESS: So you're
15 asking me what diversion is?
16 BY MR. CLUFF:
17 Q. Yeah.
18 A. Diversion is the transfer of
19 controlled substances into illegal
20 channels.
21 Q. Okay. So you were
22 responsible for auditing diversion at the
23 distribution centers?
24 A. We --

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1 MR. NICHOLAS: Object to the
2 form.
3 Go ahead.
4 THE WITNESS: We completed
5 the audit checklist that covered
6 diversion. That's correct.
7 BY MR. CLUFF:
8 Q. Who's "we"?
9 A. The auditors.
10 Q. Okay. Who were the
11 auditors?
12 A. They varied over the time
13 that I held that job.
14 Q. What are some of their
15 names?
16 A. Greg Madsen, Cathy Marcum.
17 Today or during the time that I held the
18 job?
19 Q. During the time that you
20 held the job.
21 A. Erica Burwell. That was it.
22 There was four of us.
23 Q. What area was Greg Madsen
24 responsible for?

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1 A. Like me, his region shifted,
2 I think, over the period of the time that
3 we held that job. Generally over the
4 west region, I believe.
5 Q. West region?
6 A. I think for a large part of
7 the time.
8 Q. Was he ever responsible for
9 the region that included Florida?
10 A. I don't believe so.
11 Q. What about Cathy Marcum?
12 What regions was she responsible for?
13 A. I don't recall over that
14 period of time. They shifted.
15 Q. Is Cathy Marcum still
16 responsible for a region at
17 AmerisourceBergen?
18 A. She works for Steve Mays.
19 I'm not sure what her specific
20 responsibilities are at this time.
21 Q. What about Erica Burwell?
22 Do you know what region she was
23 responsible for?
24 A. Again, it shifted over a

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1 period of years.
2 Q. Can you tell me which
3 regions?
4 A. I believe she was
5 responsible for the south region at one
6 time.
7 Q. So she would have been
8 responsible for Florida?
9 A. At one time, yeah.
10 Q. Okay. Do you know when Ms.
11 Burwell began working for
12 AmerisourceBergen?
13 A. No, I don't recall that.
14 Q. Is she still employed at
15 AmerisourceBergen?
16 A. No.
17 Q. Do you know when she left
18 the company?
19 A. No, I don't recall.
20 Q. Do you know if anyone else
21 has been responsible for the south region
22 in the time that you've been employed by
23 AmerisourceBergen from 2002 to the
24 present?

<p style="text-align: right;">Page 106</p> <p>1 A. I'm not really sure who is 2 responsible for it now. Like I said, it 3 shifted. 4 Q. Do you know if anybody 5 besides Erica Burwell were responsible 6 for it during the time that you were a 7 supervisor? 8 A. Over the roughly 13 years 9 that I held that job, I don't recall 10 anybody else who had the south region 11 other than Erica Burwell. It could have 12 been some other people that took over 13 Orlando, but I don't recall. 14 Q. So we got to those names 15 because you mentioned that "we," the 16 regional supervisors, audited diversion 17 at the distribution centers. 18 What were they looking at 19 when they audited the distribution 20 centers about diversion? 21 A. There were questions on the 22 audit checklist that covered that 23 component of the program. 24 Q. Do you remember what some of</p>	<p style="text-align: right;">Page 108</p> <p>1 training. 2 Q. What were you looking at 3 about training? 4 A. Just ensure that it was 5 completed per policy. 6 Q. So based on that question, 7 there was an AmerisourceBergen policy 8 about training distribution center 9 associates about diversion? 10 MR. NICHOLAS: Object to the 11 form. 12 Go ahead. 13 THE WITNESS: Yes, I believe 14 there was. 15 BY MR. CLUFF: 16 Q. And you would have been 17 responsible for auditing the training 18 processes for approximately 13 years, 19 correct? 20 A. Yes. 21 Q. Do you recall, based on your 22 13 years of experience auditing training, 23 what the training policy was? 24 A. Well, there was different</p>
<p style="text-align: right;">Page 107</p> <p>1 the questions were? 2 A. I think there was a daily 3 activity report that the compliance 4 manager had to complete and sign. 5 Q. So you would have been 6 looking at those reports? 7 A. Yes, as the auditor. 8 Q. Just to double-check that 9 they were being filled out? 10 A. Yeah, and they were filled 11 out properly. 12 Q. Okay. So making sure they 13 were complete? 14 A. Yes. 15 Q. And that they had, what, 16 accurate information? 17 A. Yes. We would -- we would 18 audit them to make sure that they were 19 completed per policy. 20 Q. What are some of the other 21 things that you were looking at in terms 22 of diversion at the distribution centers 23 while you were conducting audits? 24 A. Another component was</p>	<p style="text-align: right;">Page 109</p> <p>1 training for different personnel. So we 2 would ensure that the appropriate 3 training was conducted in the time period 4 that it was required for the correct 5 associates. 6 Q. Were there different time 7 periods for different associates? 8 A. I don't recall. I believe 9 it was an annual requirement. 10 Q. So generally distribution 11 center associates were required to be 12 trained annually, right? 13 A. I believe so. 14 (Brief interruption.) 15 MR. CLUFF: Off the record 16 for a second. 17 THE VIDEOGRAPHER: Going off 18 the record, 11:36 a.m. 19 (Brief pause.) 20 THE VIDEOGRAPHER: Back on 21 record, 11:36 a.m. 22 BY MR. CLUFF: 23 Q. I want to go back to the 24 other regional supervisors who were in</p>

<p style="text-align: right;">Page 110</p> <p>1 charge of auditing. You said that you 2 believed that Erica Burwell was 3 responsible for the Florida -- the south 4 region until some other people took over. 5 Do you know who would have taken over? 6 A. I don't recall. I believe 7 Erica was in charge of that region for -- 8 for the majority of the time, if not all 9 of the time. 10 Q. Is there any reason that the 11 south region stands out to you as 12 somebody taking over? 13 A. No. It would just be a 14 normal shift in the -- in the regional 15 break down. Obviously when she left the 16 company somebody else took over that 17 region. 18 Q. Do you recall who that is? 19 A. I don't recall. 20 Q. Is there any reason that the 21 south region would stand out to you 22 compared to any other region? 23 A. Not from an audit 24 standpoint, no.</p>	<p style="text-align: right;">Page 112</p> <p>1 2015. So we can use your dates for your 2 job responsibilities, and I would ask you 3 during that time, was there any reason 4 that the south region stood out to you 5 from a -- from an audit standpoint? 6 A. No. From an audit 7 standpoint I can't really think of 8 anything that would have impacted me as 9 an auditor. 10 Q. Is there anything that would 11 have impacted AmerisourceBergen from your 12 standpoint as an auditor in the south 13 region between 2002 and 2015? 14 MR. NICHOLAS: Object to the 15 form. 16 THE WITNESS: I can't speak 17 to what the corporation would 18 have -- would have thought 19 regarding -- regarding audit 20 standpoint. 21 BY MR. CLUFF: 22 Q. Okay. I don't think that's 23 the question that I asked. You had 24 experience as an auditor looking at a</p>
<p style="text-align: right;">Page 111</p> <p>1 Q. There were no significant 2 events in the south region from an 3 auditing standpoint that would concern 4 you? 5 MR. NICHOLAS: Object to the 6 form. 7 Could you put a time period 8 on this? 9 BY MR. CLUFF: 10 Q. You can answer my question. 11 A. Yeah, I would ask you to 12 rephrase the question with a little more 13 detail. 14 Q. We talked earlier about the 15 fact that you're not entitled to change 16 your answer based on objections that your 17 attorney makes unless you're specifically 18 instructed not to answer my question. 19 I'm going to put a time 20 frame on this question, but I think you 21 understand that I'm talking about your 22 time as supervisor of regional 23 compliance -- of regulatory compliance. 24 You told me that was between 2002 and</p>	<p style="text-align: right;">Page 113</p> <p>1 number of different aspects of the 2 distribution center business, correct? 3 A. Correct. 4 Q. One of them was diversion, 5 right? 6 A. Yes. 7 Q. Okay. You also have a long 8 history with AmerisourceBergen regarding 9 licensing of the distribution centers, 10 correct? 11 A. Yes. 12 Q. Would you agree with me that 13 you are very fluent in the licensing 14 requirements for a distribution center? 15 A. Yes, I would agree with 16 that. 17 Q. And based on your auditing 18 of regulatory compliance at the 19 distribution centers, would you also 20 agree with me that you're very familiar 21 with the regulatory requirements the 22 distribution centers have? 23 A. Yes. I am very familiar 24 with that.</p>

<p style="text-align: right;">Page 114</p> <p>1 Q. Are you aware of any events 2 in the south region from a licensing or 3 regulatory compliance point of view that 4 would concern you? 5 MR. NICHOLAS: Object to the 6 form. 7 THE WITNESS: Yes. Events 8 did occur that impacted the south 9 region. 10 BY MR. CLUFF: 11 Q. What events? 12 A. I recall that in 2007 the 13 Orlando distribution center had their DEA 14 license suspended. 15 Q. So previously I asked you if 16 there was anything that happened in that 17 region that concerned you from an 18 auditing standpoint. And you said no. 19 A. That's correct. 20 Q. So is your answer that the 21 suspension of a distribution center's 22 license doesn't concern you? 23 MR. NICHOLAS: Objection. 24 It's just arguing.</p>	<p style="text-align: right;">Page 116</p> <p>1 Q. Have there ever been any 2 actions against registrations of 3 distribution centers in the regions that 4 you were responsible for between 2002 and 5 2015? 6 A. Yeah. Various actions were 7 taken on my distribution centers through 8 that period. 9 Q. Okay. What actions were 10 taken against your distribution centers? 11 A. Over a 13-year period? 12 Q. Yes, please. 13 A. We had multiple DEA audits 14 during -- during that period of time, 15 multiple state audits during that time. 16 I couldn't give you specifics on actions 17 that were taken in all distribution 18 centers that spans such a long period of 19 time. I don't recall. 20 Q. Were there ever any 21 suspensions of a distribution center's 22 license in your regions? 23 A. Not that I recall. 24 Q. Were there any</p>
<p style="text-align: right;">Page 115</p> <p>1 MR. CLUFF: It's a question, 2 Bob. 3 MR. NICHOLAS: Go ahead. 4 It's just arguing. Stalling. 5 MR. CLUFF: Bob, I'm allowed 6 to ask argumentative questions. 7 It's a deposition. Don't coach 8 this witness. 9 MR. NICHOLAS: I'm not -- 10 that's not coaching. I just said 11 you're arguing. Period. 12 Objection. 13 Go ahead. 14 THE WITNESS: I don't think 15 that the -- that the action taken 16 against that distribution center 17 affected my -- from an audit 18 standpoint. So that's the 19 question that I was answering. 20 My audits -- my audits were 21 conducted regardless of what 22 action is taken on a distribution 23 center. 24 BY MR. CLUFF:</p>	<p style="text-align: right;">Page 117</p> <p>1 investigations of diversion at any of the 2 distribution centers within your regions 3 between 2002 and 2015? 4 MR. NICHOLAS: Object to the 5 form. 6 THE WITNESS: Yes. 7 BY MR. CLUFF: 8 Q. What were some of those? 9 A. I can't speak to them in 10 detail. Diversion, internal thefts, 11 in-route thefts were investigations that 12 we routinely conducted through that 13 period. 14 Q. So would you agree with me 15 that if a theft occurs inside of 16 AmerisourceBergen, that would constitute 17 diversion? 18 A. Yes, that would qualify as 19 diversion. 20 Q. So AmerisourceBergen was 21 essentially investigating diversion 22 within its own company while you were 23 working as a regional supervisor from 24 2002 to 2015?</p>

<p style="text-align: right;">Page 118</p> <p>1 MR. NICHOLAS: Object to the 2 form. 3 THE WITNESS: Yes. Internal 4 theft was a common occurrence that 5 we investigated for. 6 BY MR. CLUFF: 7 Q. What happened to those pills 8 that were stolen? 9 MR. NICHOLAS: Object to the 10 form. Go ahead. 11 THE WITNESS: In many cases 12 they were recovered. If they 13 weren't recovered, there's no way 14 for us to know what -- what 15 happened to them. 16 BY MR. CLUFF: 17 Q. Do you think they ended up 18 in the illegal market? 19 MR. NICHOLAS: Object to the 20 form. 21 THE WITNESS: There's no way 22 for me to speculate what -- what 23 happened to those products that 24 were stolen.</p>	<p style="text-align: right;">Page 120</p> <p>1 BY MR. CLUFF: 2 Q. You said that "per the 3 regulation we're required to monitor 4 customer orders and identify suspicious 5 orders." 6 And then you said "there's 7 no way for a wholesaler to specifically 8 prevent diversion." 9 Did I get your testimony 10 correctly? 11 MR. NICHOLAS: Object to the 12 form. 13 THE WITNESS: I mean 14 diversion, there's just not enough 15 information that we have. But I 16 would say that the overall goal of 17 our program is to prevent 18 diversion. But specifically we -- 19 we monitor for suspicious orders 20 and that's the limit of what we do 21 within my program. 22 BY MR. CLUFF: 23 Q. You said you're familiar 24 with the Controlled Substance Act, right?</p>
<p style="text-align: right;">Page 119</p> <p>1 BY MR. CLUFF: 2 Q. What do people usually do 3 with products that they steal? 4 MR. NICHOLAS: Object to the 5 form of the question. 6 THE WITNESS: There's no way 7 I could speculate as to what 8 happens to products that are 9 stolen. 10 BY MR. CLUFF: 11 Q. Do you understand that 12 AmerisourceBergen has a regulatory 13 obligation to maintain systems to prevent 14 diversion? 15 MR. NICHOLAS: Object to the 16 form. 17 THE WITNESS: Per the 18 regulation, we're required to 19 monitor customer orders and 20 identify suspicious orders and 21 treat them accordingly. So 22 there's no way for us as a 23 wholesaler to specifically prevent 24 diversion which follow regulation.</p>	<p style="text-align: right;">Page 121</p> <p>1 A. I'm familiar with its 2 existence, yeah. 3 Q. Have you ever read it? 4 A. I'm sure at one point I've 5 read it. 6 Q. Are you aware that the 7 Controlled Substance Act imposes upon 8 registrants a regulatory obligation to 9 maintain systems to prevent diversion? 10 MR. NICHOLAS: Object to the 11 form. 12 THE WITNESS: We -- we 13 follow the regulation that 14 requires us to have a system in 15 place to identify suspicious 16 orders. And to prevent those from 17 being shipped and to report them 18 accordingly. 19 BY MR. CLUFF: 20 Q. So then you agree with me 21 that there is a regulatory obligation for 22 wholesalers as registrants to maintain 23 systems to prevent diversion? 24 MR. NICHOLAS: Object to the</p>

<p style="text-align: right;">Page 122</p> <p>1 form.</p> <p>2 THE WITNESS: No, I wouldn't</p> <p>3 agree with that at all. We don't</p> <p>4 have enough information as a</p> <p>5 wholesaler to identify if</p> <p>6 diversion is happening. There's</p> <p>7 no way for us to know if a</p> <p>8 possibly suspicious order, if it</p> <p>9 was shipped, if it was diverted or</p> <p>10 not. We're shipping only to</p> <p>11 licensed entities. So we just</p> <p>12 don't have sufficient information</p> <p>13 to agree with that.</p> <p>14 BY MR. CLUFF:</p> <p>15 Q. I'm asking a different</p> <p>16 question. I'm asking about the existence</p> <p>17 of something, not whether or not you can</p> <p>18 comply with it as AmerisourceBergen.</p> <p>19 The question is: Is there a</p> <p>20 regulatory obligation that exists in the</p> <p>21 Controlled Substance Act for registrants</p> <p>22 to maintain systems designed to prevent</p> <p>23 diversion. Yes or no?</p> <p>24 MR. NICHOLAS: Object to the</p>	<p style="text-align: right;">Page 124</p> <p>1 definition of diversion in, we do</p> <p>2 the best we can to identify</p> <p>3 suspicious orders and to block</p> <p>4 them and report them to the DEA.</p> <p>5 So I would -- I would stipulate</p> <p>6 that.</p> <p>7 It's the DEA's</p> <p>8 responsibility to -- to look at</p> <p>9 diversion. It's our job to -- to</p> <p>10 identify suspicious orders and to</p> <p>11 treat them accordingly.</p> <p>12 BY MR. CLUFF:</p> <p>13 Q. So it's a wholesaler's job</p> <p>14 to identify suspicious orders and treat</p> <p>15 them accordingly?</p> <p>16 MR. NICHOLAS: Object to the</p> <p>17 form. Go ahead.</p> <p>18 THE WITNESS: Yeah. If we</p> <p>19 identify a suspicious order, we</p> <p>20 would -- we would reject it and</p> <p>21 report it.</p> <p>22 BY MR. CLUFF:</p> <p>23 Q. All suspicious orders that</p> <p>24 are identified are rejected?</p>
<p style="text-align: right;">Page 123</p> <p>1 form.</p> <p>2 THE WITNESS: The regulation</p> <p>3 might state that the regulation</p> <p>4 that we follow is designed to</p> <p>5 prevent diversion, but I'm not</p> <p>6 familiar enough with the</p> <p>7 regulation to -- to agree with</p> <p>8 that or not. I know that we</p> <p>9 identify suspicious orders.</p> <p>10 BY MR. CLUFF:</p> <p>11 Q. But it was also, I think,</p> <p>12 your testimony that said wholesalers just</p> <p>13 cannot prevent diversion, can they?</p> <p>14 MR. NICHOLAS: Object to the</p> <p>15 form. Go ahead.</p> <p>16 THE WITNESS: No. As a</p> <p>17 wholesaler, I would not say that</p> <p>18 it's our responsibility to prevent</p> <p>19 diversion. I would say that we</p> <p>20 are one component of a closed</p> <p>21 system for the distribution</p> <p>22 center -- for the distribution of</p> <p>23 controlled substance.</p> <p>24 So when you bring the</p>	<p style="text-align: right;">Page 125</p> <p>1 MR. NICHOLAS: Object to the</p> <p>2 form.</p> <p>3 THE WITNESS: If the order</p> <p>4 is found to be suspicious, we</p> <p>5 would reject it and report it.</p> <p>6 BY MR. CLUFF:</p> <p>7 Q. Based on your experience</p> <p>8 auditing diversion control practices at</p> <p>9 distribution centers, what constitutes a</p> <p>10 suspicious order?</p> <p>11 A. Okay. The definition of a</p> <p>12 suspicious order is an order of unusual</p> <p>13 size, frequency or deviating from the</p> <p>14 normal pattern.</p> <p>15 Q. Is that a definition you</p> <p>16 understand from reading federal</p> <p>17 regulations?</p> <p>18 A. Yes.</p> <p>19 Q. On a day-to-day basis, if</p> <p>20 you were auditing a distribution center's</p> <p>21 practice of identifying suspicious</p> <p>22 orders, what would you be looking at?</p> <p>23 A. I'm sorry, repeat that?</p> <p>24 Q. Sure.</p>

<p style="text-align: right;">Page 126</p> <p>1 So you conducted audits of 2 distribution centers, right? 3 A. Under that role, yes. 4 Q. And distribution centers are 5 engaged in diversion control work? 6 MR. NICHOLAS: Object to the 7 form. 8 THE WITNESS: In a limited 9 capacity at the distribution 10 center level, yes. 11 BY MR. CLUFF: 12 Q. Are they looking for 13 suspicious orders? 14 A. What time period are you 15 talking about? 16 Q. Between 2002 and 2015. 17 A. During that period of time, 18 I would say that the -- they were 19 managing their responsibilities under the 20 audit program. 21 But when you say that they 22 were monitoring for suspicious orders, I 23 believe during that period of time the 24 determination of an order to be</p>	<p style="text-align: right;">Page 128</p> <p>1 many years that I was doing that. 2 Q. Let's back up for a second. 3 You were in charge of 4 auditing the regulatory compliance of 5 distribution centers in the east region 6 between 2002 and 2015. Does that sound 7 right? 8 A. Yes. 9 Q. And one of the areas you 10 audited at the distribution center level 11 was diversion control, right? 12 A. Yes. 13 Q. Does diversion control 14 involve monitoring for suspicious orders? 15 MR. NICHOLAS: Object to the 16 form. 17 THE WITNESS: Yes, it does. 18 BY MR. CLUFF: 19 Q. Were distribution centers 20 monitoring for suspicious orders as part 21 of their diversion control 22 responsibilities? 23 A. During that period of time 24 they were.</p>
<p style="text-align: right;">Page 127</p> <p>1 suspicious would be handled by a 2 different group. 3 Q. So I didn't say that they 4 were monitoring suspicious orders. I 5 asked you if they are monitoring for 6 suspicious orders at the distribution 7 center level between 2002 and 2015. 8 MR. NICHOLAS: Object to the 9 form and the commentary. Go 10 ahead. 11 THE WITNESS: Yeah, they 12 were -- they were performing 13 responsibilities that were related 14 to diversion identification. 15 BY MR. CLUFF: 16 Q. What are those? 17 A. Over that period of time, I 18 wasn't directly responsible for the 19 diversion program. So -- and it's 20 evolved. For a period of time it was -- 21 it spanned over years, so I couldn't tell 22 you specifically how that changed over 23 the years or specifically what 24 responsibilities they had. It's been so</p>	<p style="text-align: right;">Page 129</p> <p>1 Q. What were they doing to 2 monitor for suspicious orders? Actually, 3 strike that. 4 What portion of their 5 activities monitoring for suspicious 6 orders did you audit? 7 A. I audited to make sure that 8 the -- and again, this is something 9 that -- that was a long time ago and it's 10 evolved over time. Those questions 11 changed from 2002 to 2015, so those 12 responsibilities evolved. So I wouldn't 13 feel comfortable going into specific 14 responsibilities that the distribution 15 centers had with regards to that. 16 Q. Okay. When you say a long 17 time ago, your responsibility as a 18 regional supervisor or regional director 19 ended three years ago, right? 20 A. Yes. 21 Q. Is that a long period of 22 time to you? 23 MR. NICHOLAS: I'll object 24 to the form.</p>

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1 THE WITNESS: Three years is
 2 a long period of time.
 3 BY MR. CLUFF:
 4 Q. Compared to 13 years that
 5 you were responsible for these jobs?
 6 MR. NICHOLAS: Object to the
 7 form.
 8 THE WITNESS: Yes.
 9 BY MR. CLUFF:
 10 Q. So the time you spent doing
 11 the job is essentially four times as long
 12 as it's been since you've stopped doing
 13 the job, right?
 14 MR. NICHOLAS: Object to the
 15 math. Go ahead.
 16 THE WITNESS: Yes.
 17 BY MR. CLUFF:
 18 Q. Let's break it up though.
 19 Maybe that will be easier.
 20 So you started as the
 21 regional supervisor over regulatory
 22 affairs, or regulatory compliance in
 23 2001, right?
 24 A. I think it was after 2001.

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1 Q. You're right. I'm sorry,
 2 2002?
 3 A. Roughly.
 4 Q. So how about between 2002
 5 and 2005, that's a three-year period.
 6 Were distribution centers during that
 7 period of time monitoring for suspicious
 8 orders?
 9 A. It was too long ago. I just
 10 don't recall.
 11 Q. Do you recall auditing
 12 distribution centers between 2001 and
 13 2005?
 14 A. I believe I audited
 15 distribution centers during that time.
 16 Q. Do you recall ever auditing
 17 diversion control of a distribution
 18 center between 2001 and 2005?
 19 A. No, I don't recall auditing.
 20 I don't recall what the audit checklist
 21 entailed then.
 22 Q. So you don't know one way or
 23 the other today as you sit here whether
 24 you audited diversion control between

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1 2001 and 2005?
 2 A. I'm not saying it didn't
 3 happen. I just don't recall. It was too
 4 long ago.
 5 Q. Understood. 2005 to 2007,
 6 do you recall performing audits during
 7 that period of time?
 8 A. I was performing audits
 9 during that period of time.
 10 Q. And that would still have
 11 been in the east -- the east region
 12 approximately?
 13 A. I performed audits
 14 throughout the country.
 15 Q. Understood. So you didn't
 16 necessarily audit only the region that
 17 you were responsible for?
 18 A. That's correct.
 19 Q. Was that -- between 2001 and
 20 2015, you conducted audits. During that
 21 period of time would you have conducted
 22 audits outside of your region for the
 23 entire period of time or for some
 24 specified period of time?

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1 A. I would say for the entire
 2 period I conducted audits outside of my
 3 region.
 4 Q. Did you ever conduct any
 5 audits in the south region?
 6 A. Yes.
 7 Q. When?
 8 A. On and off throughout the
 9 whole period.
 10 Q. Between 2001 and 2005?
 11 A. I believe it started in
 12 2002.
 13 Q. You're right. I keep saying
 14 2002. My fault.
 15 How about between 2002 and
 16 2005? Did you conduct audits in the
 17 south region?
 18 A. I don't recall what the
 19 schedule was, but I would assume.
 20 Q. So it's likely that you
 21 conducted audits in the south region
 22 between 2002 and 2005?
 23 A. Yeah, I would assume that I
 24 conducted audits in the south region.

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1 Q. How about between 2005 and
2 2007? Would you have conducted audits in
3 the south region between 2005 and 2007?
4 A. I don't recall.
5 Q. Earlier when I asked you if
6 you had performed audits in the south
7 region between 2002 and 2005, you said
8 you didn't recall the schedule.
9 There was a schedule for
10 audits?
11 A. Yes.
12 Q. Who was in charge of that
13 schedule?
14 A. I believe Steve Mays.
15 Q. And was it a written
16 schedule?
17 A. Yes.
18 Q. Was it a schedule that Steve
19 Mays created?
20 A. I believe he did during that
21 period of time. It was a long time ago.
22 Q. Okay. And it would have
23 been circulated to auditors somehow?
24 A. Yes.

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1 Q. Would that have been by
2 e-mail?
3 A. I don't recall.
4 Q. Was there another way that
5 Steve Mays communicated scheduling of
6 audits to auditors?
7 A. It was communicated to us
8 during team meetings. I believe the
9 e-mail probably would have been utilized.
10 Q. So there were meetings about
11 audits as well?
12 A. We would have periodic team
13 meetings.
14 Q. So you would have discussed
15 the schedules at team meetings. Would
16 you have received the paper copy of an
17 audit during the team meeting? Excuse
18 me, a paper copy of a schedule during a
19 team meeting?
20 A. I assume so.
21 Q. And you said e-mail would
22 have been utilized as well, right?
23 A. I would assume so.
24 Q. So those should exist

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1 somewhere in the world of
2 AmerisourceBergen's documents, correct?
3 MR. NICHOLAS: Object to the
4 form.
5 THE WITNESS: I would
6 assume.
7 MR. NICHOLAS: Go ahead.
8 THE WITNESS: I would
9 assume.
10 BY MR. CLUFF:
11 Q. You don't have any reason to
12 believe that they would have been
13 destroyed, right?
14 A. No.
15 Q. From that schedule of
16 audits, I would be able to determine who
17 audited distribution centers in the south
18 region in any given period of time,
19 correct?
20 A. Yeah, I would assume so.
21 Q. And the same thing would be
22 true for the north region, right?
23 A. Yes.
24 Q. And the south region and the

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1 west region?
2 A. Yes.
3 Q. Were those an important
4 documents in your work as an auditor?
5 A. Well, they laid out our
6 audit schedule for the next year.
7 Q. So it was a yearly schedule?
8 A. To my recollection it was.
9 Q. Do you recall, based on your
10 work as an auditor working under Steve
11 Mays, how the schedule was set up?
12 That's a bad question.
13 Do you recall in your work
14 as an auditor working under Steve Mays,
15 how he prioritized which distribution
16 centers should be audited?
17 MR. NICHOLAS: Object to the
18 form.
19 Go ahead.
20 THE WITNESS: No, I don't
21 recall how he formulated his audit
22 schedules.
23 BY MR. CLUFF:
24 Q. Are you aware of any

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1 policies or procedures that dictated the
2 frequency with which audits should
3 happen?
4 A. No, I don't recall.
5 Q. Do you know if one ever
6 existed?
7 A. If what existed?
8 Q. A policy about the frequency
9 of audits.
10 MR. NICHOLAS: Object to the
11 form.
12 THE WITNESS: I don't recall
13 if a specific policy existed
14 regarding the frequency of audits.
15 It may have.
16 BY MR. CLUFF:
17 Q. Can you give me an estimate
18 on how frequently distribution centers
19 were audited?
20 A. It would vary.
21 Q. What would it vary based on?
22 MR. NICHOLAS: Object to the
23 form.
24 THE WITNESS: What period of

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1 time are we talking about?
2 BY MR. CLUFF:
3 Q. Let's do 2002 to 2005.
4 A. I have no recollection.
5 Q. You couldn't say whether it
6 was yearly?
7 A. No.
8 Q. How about from 2005 to 2007?
9 How frequently were audits conducted?
10 A. Again, I don't recall.
11 Q. How about after 2007, say
12 2007 to 2012?
13 A. I believe during that period
14 it was normally an annual audit.
15 Q. Is there some reason that
16 you recall why, after 2007, that it was
17 an annual audit but you don't recall any
18 schedule of audits before 2007?
19 A. The most recent years that I
20 was regional director, we were generally
21 conducting annual audits of our
22 distribution centers. I don't recall
23 what it was, when you go back that far --
24 I just don't recall what the schedule was

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1 during that -- over that period of time.
2 Q. When did you become the
3 regional director?
4 A. Title changed to director
5 from supervisor at some point. I don't
6 recall.
7 Q. The job responsibilities
8 didn't change?
9 A. No.
10 Q. And then when did you become
11 the regional director?
12 A. Again, I don't recall.
13 Q. Sometime in the last five
14 years?
15 A. I don't recall.
16 Q. Did your job
17 responsibilities change?
18 A. From the time that I became
19 a director versus prior to that? I'm not
20 sure I understand the question.
21 Q. You were a supervisor
22 originally and then became a director,
23 you said, right?
24 A. Correct.

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1 Q. And there was no change in
2 your job responsibilities?
3 A. No.
4 Q. Okay. And then from a
5 director you became a regional director.
6 Was there any change in your
7 responsibilities at that point in time?
8 A. No. We were always -- we
9 were regional manager, I think, and then
10 we became -- I think it was either
11 manager or supervisor, and then we became
12 a regional director. So no change in
13 responsibilities to my recollection based
14 on that title change.
15 Q. And so your work as a
16 regional director takes you through the
17 end of 2015 or some time in 2015?
18 A. Takes me to February 2015.
19 Q. Okay. And then what was
20 your job in February of 2015?
21 A. I was reassigned to director
22 of diversion control.
23 Q. We'll pick up there in a
24 little bit. Let's go back to this audit

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1 schedule.
2 Was there a policy or
3 procedure in 2007 that you can recall
4 about the frequency of audits at
5 distribution centers?
6 A. In the 2007 time frame, I
7 don't remember what the policy contained
8 with regards to frequency of audits. It
9 was too long ago. It was a lot of years
10 ago.
11 Q. But there was a policy about
12 audits?
13 MR. NICHOLAS: Object to the
14 form.
15 THE WITNESS: There were
16 general policies that were related
17 to audits, yes.
18 BY MR. CLUFF:
19 Q. Do you remember any of the
20 numbers of the policies, like 5.1?
21 A. No.
22 Q. Isn't that a document that
23 you would have worked with pretty
24 frequently?

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1 A. 5.1?
2 Q. No. Just the policies and
3 procedures governing audits.
4 A. Yes.
5 Q. And you don't recall the
6 number of the policy or procedure?
7 A. We had a lot of policies and
8 procedures. So I don't recall specific
9 numbers of the policies.
10 Q. Do you recall if there was a
11 policy or procedure after 2007 that
12 governed the frequency of audits?
13 A. I believe at some point post
14 2007 a policy was created that was
15 related to the frequency of audits. But
16 I don't remember when that was created.
17 Q. So after 2007 your
18 recollection is that a policy was created
19 about the frequency of audits?
20 MR. NICHOLAS: Object to the
21 form.
22 THE WITNESS: I believe so.
23 BY MR. CLUFF:
24 Q. So before that it didn't

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1 exist?
2 A. No, I didn't say that.
3 Q. So it existed before 2007
4 and then it was created in 2007?
5 MR. NICHOLAS: Object to the
6 form.
7 THE WITNESS: I would assume
8 that it existed, you know, from a
9 very early point. But I don't
10 know when it became -- you know,
11 when it was created. I have no
12 idea. It was too long ago. I
13 wasn't responsible for writing
14 policies at that period of time.
15 BY MR. CLUFF:
16 Q. I just asked you. Do you
17 recall if there was a policy or procedure
18 after 2007 that governed the frequency of
19 audits. And I'm reading from the live
20 feed here, and your answer is, "I believe
21 at some point post 2007 a policy was
22 created."
23 Did a policy exist before it
24 was created sometime after 2007?

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1 MR. NICHOLAS: Object to the
2 tone and the bickering.
3 Go ahead.
4 THE WITNESS: I would
5 stipulate that I don't recall when
6 that policy that governed
7 frequency of audits was created.
8 I just know that it existed post
9 2007, because I don't remember
10 prior to that.
11 BY MR. CLUFF:
12 Q. And you don't recall it's
13 existence before that?
14 A. I'm not saying it didn't
15 exist. I just don't remember the audit
16 process during that period of time. That
17 was a long time ago.
18 Q. So you don't recall it
19 existing?
20 MR. NICHOLAS: Object to the
21 form and the bickering.
22 Go ahead.
23 THE WITNESS: I just don't
24 recall.

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1 BY MR. CLUFF:
2 Q. Do you have a general
3 recollection of this policy that you now
4 recall sometime after 2007 about the
5 frequency of audits, what did it specify
6 about the frequency of audits? How often
7 should they happen?
8 MR. NICHOLAS: Object to the
9 form.
10 THE WITNESS: I recall there
11 was generally an annual
12 requirement for a distribution
13 center to be audited.
14 BY MR. CLUFF:
15 Q. Was that the same all the
16 way through the end -- or from 2000 --
17 let me back up. That was poorly worded.
18 Was that policy consistent
19 from the time that you can recall it
20 existing through 2015?
21 MR. NICHOLAS: Object to the
22 form.
23 THE WITNESS: Yeah, I
24 remember that policy existed up to

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1 the time I left that position.
2 BY MR. CLUFF:
3 Q. Excuse me. Are you aware of
4 any changes to that policy regarding the
5 frequency since you left that position?
6 A. No.
7 Q. So it's your best
8 understanding today that distribution
9 centers are still audited on an annual
10 basis?
11 A. That responsibility has
12 transitioned to a different team. So I
13 can't really speak to how often
14 distribution centers are audited today.
15 Lots of changes have been made to that
16 program.
17 Q. But your general
18 understanding is that the policy calls
19 for them to be audited annually?
20 MR. NICHOLAS: Object to the
21 form. Make it a question. You
22 are just making statements. Go
23 ahead.
24 BY MR. CLUFF:

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1 Q. Do you understand my
2 question?
3 A. I would say at the time I
4 left the position, I believe there was a
5 policy that governed annual audits of
6 distribution centers.
7 Q. So before we started talking
8 about the frequency, we were talking
9 about diversion control and your audit of
10 diversion control. And also the
11 distribution centers that you recall
12 auditing.
13 So from 2002 to 2005 you
14 said you recall -- well, you don't
15 specifically recall. But that you assume
16 you audited distribution centers in the
17 south region, correct?
18 A. For what period of time?
19 Q. 2002 to 2005.
20 A. I assume during that period
21 I audited the south region at some point.
22 Q. How about 2005 to 2007.
23 Would you have audited distribution
24 centers in the south region?

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1 A. I would assume.
2 Q. Do you recall at any point
3 between 2002 and 2015 auditing
4 distribution centers in Florida?
5 A. Yes. I've audited the
6 Orlando distribution center during that
7 period of time.
8 Q. Do you recall the date that
9 you audited the Orlando distribution
10 center?
11 A. No, I don't.
12 Q. Do you recall auditing your
13 Orlando distribution center between 2002
14 and 2005?
15 A. No, not specifically.
16 Q. Between 2005 and 2007?
17 A. Nope.
18 Q. 2007 to 2012?
19 A. I don't remember specific
20 dates that I may have audited the Orlando
21 DC.
22 Q. 2012 to 2015?
23 A. (Gesturing.)
24 Q. So the only record --

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1 THE COURT REPORTER: I
2 didn't get an answer, I'm sorry.
3 MR. NICHOLAS: Yeah, let him
4 answer. You are making
5 statements. Let him answer some
6 questions.
7 THE WITNESS: No. No, I
8 don't recall specific dates during
9 that 13-year period that I audited
10 the Orlando distribution center.
11 BY MR. CLUFF:
12 Q. So the only record of your
13 audit of the Orlando distribution center
14 would come from the audit schedule,
15 correct?
16 MR. NICHOLAS: Object to the
17 form. Go ahead.
18 THE WITNESS: Well, there
19 would be a scheduling that would
20 be the corresponding report that
21 was generated as a result of the
22 audit.
23 BY MR. CLUFF:
24 Q. Do you recall writing a

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1 report about your audit of the Orlando
2 distribution center?
3 MR. NICHOLAS: I'm going to
4 interpose an objection to this
5 continuing line of questioning to
6 the extent that we are starting to
7 get clearly outside of the scope.
8 MR. CLUFF: Well, he is a
9 fact witness. There's no scope.
10 I'm asking about his recollection.
11 MR. NICHOLAS: I -- I --
12 I've explained my -- that's fine.
13 MR. CLUFF: I know, I
14 understand that you didn't finish.
15 I'm interrupting you because
16 you're making an improper
17 objection.
18 MR. NICHOLAS: Well, this is
19 not --
20 MR. CLUFF: He's here today
21 to talk about his recollection of
22 facts. He just said that there
23 are two ways that we could figure
24 out whether he had, and when,

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1 audited the Orlando distribution
2 center.
3 MR. NICHOLAS: Do you want
4 to excuse him so that he's not --
5 you don't -- so you don't feel
6 he's hearing anything that he
7 shouldn't hear --
8 MR. CLUFF: No.
9 MR. NICHOLAS: -- because we
10 can do that if we want to have an
11 argument.
12 Do you want to do that?
13 MR. CLUFF: Bob, he said
14 that the two ways that we could
15 find that out was from the audit
16 schedule and from his report of
17 the audit.
18 And I asked him a
19 foundational question regarding
20 his recollection about whether he
21 wrote a report. That's a purely
22 foundational factual question.
23 MR. NICHOLAS: You don't
24 know what my objection is.

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1 MR. CLUFF: Okay. Make your
2 objection.
3 MR. NICHOLAS: Do you know
4 what it is? Maybe if you knew --
5 if you know what it --
6 MR. CLUFF: You said outside
7 of the scope. He's not a 30(b)(6)
8 witness.
9 MR. NICHOLAS: Why don't
10 you -- no -- well, that wasn't
11 going to be the nature of my
12 objection, Sterling.
13 MR. CLUFF: You said outside
14 of the scope, Bob. What else is
15 the nature of a scope objection?
16 MR. NICHOLAS: We are
17 talking about Ohio. We are
18 talking about -- we're talking
19 about -- he is a fact witness and
20 at some point you are just moving
21 into -- into a different case with
22 different facts. Okay.
23 So I'm just saying that
24 you're getting to the point where

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1 you are starting to ask about
2 things that are unrelated to this
3 particular lawsuit. That's all.
4 Had nothing to do with
5 30(b)(6) or facts, so if you can
6 at least -- you can agree or
7 disagree, Sterling, but you have
8 to at least let me complete my
9 objection. Then you can respond.
10 MR. CLUFF: Great.
11 MR. NICHOLAS: Now you can
12 respond.
13 BY MR. CLUFF:
14 Q. So if I understood your
15 testimony correctly, there are two ways
16 we could figure out when you audited the
17 Orlando distribution center, one is from
18 the audit schedule, right?
19 And then you said, "Or a
20 report."
21 Do you recall writing a
22 report about an audit of the Orlando
23 distribution center?
24 A. At some point I completed a

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1 report regarding -- with regards to the
2 audit of the Orlando DC.
3 Q. Was it a regular practice
4 for auditors to write reports about their
5 audit of distribution centers?
6 A. Yes, that was -- that was
7 part of the audit process. They would --
8 we would generate reports as a result of
9 the audit.
10 Q. We talked with Steve Mays,
11 and he -- he said that there was an audit
12 checklist, and you've mentioned an audit
13 checklist. I think you said there's
14 something like 200 questions?
15 A. Over 200.
16 Q. That would have been a big
17 stack of paper, correct?
18 Is the report you're talking
19 about, is that different than the
20 checklist that you would have gone
21 through while you were at a distribution
22 center?
23 A. Yes.
24 Q. How long did it take to

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1 write up those audit reports?
2 A. After the audit was over, it
3 wouldn't take too long. We had to
4 provide a preliminary report pretty quick
5 at the conclusion of the audit. Within a
6 couple days. Within -- within one day of
7 the audit concluding.
8 Q. And what -- what kind of
9 information would you put into a report?
10 A. The preliminary report would
11 contain all of the findings that were
12 associated with that audit.
13 Q. What kind of findings would
14 you include?
15 A. There were two audits that
16 we would conduct: The security
17 regulatory audit and the OSHA audit. So
18 it would have separate findings for each
19 of those areas.
20 Q. The OSHA audit would be like
21 workplace safety stuff?
22 A. Correct.
23 Q. And then the regulatory
24 audit, that would have been for the

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1 regulations that govern the distribution
2 of controlled substances, correct?
3 A. As well as prescription
4 drugs, correct.
5 Q. Do you think you may have
6 audited the Orlando distribution center
7 more than once?
8 MR. NICHOLAS: Object to the
9 form. Go ahead.
10 THE WITNESS: I recall
11 that -- that I did not audit the
12 Orlando DC too many times. I
13 remember one time specifically
14 that I audited. But I don't
15 remember -- I don't think I
16 audited that division too many
17 times.
18 BY MR. CLUFF:
19 Q. So more than once?
20 A. I'm not sure.
21 Q. You said many times.
22 MR. NICHOLAS: He said he
23 didn't think it was --
24 MR. CLUFF: Bob, I don't

<p style="text-align: right;">Page 158</p> <p>1 need you to testify for him. If 2 he wants to clarify his 3 statement -- 4 MR. NICHOLAS: I'm just -- 5 MR. CLUFF: Bob, it's not 6 your job to clarify his statement 7 for him. That's his job. 8 MR. NICHOLAS: You have to 9 stop asking misleading questions. 10 MR. CLUFF: Bob, I did not 11 ask a misleading question. I 12 asked a question based on my 13 understanding. 14 BY MR. CLUFF: 15 Q. If it was an incorrect 16 understanding, sir, please clarify it for 17 me. And your lawyer is not allowed to 18 testify for you. 19 MR. CLUFF: Do you 20 understand that today? 21 MR. NICHOLAS: Most of the 22 testimony today has been by you. 23 MR. CLUFF: Bob. 24 MR. NICHOLAS: Go ahead.</p>	<p style="text-align: right;">Page 160</p> <p>1 specifically recall one instance. When 2 was that? 3 A. I don't recall. 4 Q. Was it between 2002 and 5 2005? 6 A. I have no recollection of 7 when that occurred. 8 Q. But you very specifically 9 recall it? 10 MR. NICHOLAS: Object to the 11 form. 12 THE WITNESS: I recall 13 auditing the -- the Orlando 14 distribution center at one point. 15 I don't remember if there were 16 more. 17 BY MR. CLUFF: 18 Q. So you -- do you recall 19 going there to the Orlando distribution 20 center any other times when you weren't 21 conducting an audit? 22 A. I think I went there once 23 for a system conversion. 24 Q. What's a system conversion?</p>
<p style="text-align: right;">Page 159</p> <p>1 BY MR. CLUFF: 2 Q. I misspoke. 3 You said you recall one 4 specific instance, if I'm remembering 5 your testimony accurately, of auditing 6 the Orlando distribution center, correct? 7 And I asked you if you remembered more. 8 Do you remember more? 9 A. There might -- there might 10 have been between one and three times 11 that I audited. I know for a fact I 12 audited the Orlando DC one time. I 13 remember that specifically. There may 14 have been other instances, but I couldn't 15 confirm that here. Like I said, it was a 16 long period of time. And I audited many 17 distribution centers. 18 Q. So definitely one time. 19 Possibly one to three times. 20 A. Correct. 21 Q. We have to do that. We have 22 to get an audible answer from you. Thank 23 you. 24 So you seem to very</p>	<p style="text-align: right;">Page 161</p> <p>1 A. We -- we changed systems 2 from time to time. I believe that it was 3 a transition from Distrack to Metastorm. 4 So that's a system conversion systems 5 used to operate the distribution center, 6 maintain inventories. I believe I spent 7 a week there as the security responsible 8 individual during that conversion. 9 Q. When would that have been? 10 A. I don't recall. 11 Q. Was it after 2007? 12 A. I really can't remember. 13 Q. Is the Metatrack system 14 still in use? 15 A. It was Distrack to 16 Metastorm. And no, it's no longer in 17 use. 18 Q. So med -- okay. So is 19 Metastorm still in use? 20 A. No. 21 Q. Do you know when it was 22 retired? 23 A. We transitioned from 24 Metastorm to SAP. I don't recall the --</p>

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1 the specific schedule that that occurred.
2 Q. Do you recall that that
3 happened in 2012?
4 A. I don't recall.
5 Q. Do you recall if your audit
6 was before or after this conversion from
7 Distrack to Metastorm?
8 A. No.
9 Q. Do you recall if it was
10 before or after the conversion from that
11 system to SAP?
12 A. Well, the -- the conversion
13 from Metastorm to SAP occurred after
14 that. So it was definitely before the
15 conversion to SAP.
16 Q. So if we could pinpoint on a
17 calendar when the conversion from
18 Metastorm to SAP was, we could narrow
19 down the time period that you audited the
20 Orlando distribution center, right?
21 A. We can state it would have
22 been before that period.
23 Q. But you have no recollection
24 when the SAP system went into effect?

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1 A. No, not specifically.
2 Q. Do you -- do you know if it
3 was before 2015?
4 A. Yes, it was before 2015.
5 Q. So you audited it, audited
6 the Orlando distribution center before
7 2015?
8 A. That's correct.
9 Q. This audit of the Orlando
10 distribution center that you so
11 specifically recall, why do you
12 specifically recall it?
13 MR. NICHOLAS: Object to the
14 form.
15 THE WITNESS: I just
16 remember being there.
17 BY MR. CLUFF:
18 Q. What do you remember about
19 being there?
20 A. I remember being in Orlando.
21 Q. That's it?
22 A. That's it.
23 Q. Do you remember filling out
24 an audit checklist while you were there?

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1 A. I'm sure that one was filled
2 out since I conducted an audit.
3 Q. Do you remember if it was
4 before or after the license was suspended
5 in Orlando?
6 A. I don't recall.
7 Q. Do you remember if there
8 were any specific procedures or policies
9 that Orlando was faulting -- following
10 during that audit that were implemented
11 as a result of the settlement with the
12 DEA in 2007?
13 A. No.
14 Q. Is that something you would
15 have audited if they had been in place?
16 MR. NICHOLAS: Object to the
17 form.
18 THE WITNESS: If a change
19 was made to the audit protocol
20 then I would have followed it
21 during the audit.
22 BY MR. CLUFF:
23 Q. If there were policies or
24 procedures that the Orlando distribution

Page 165

1 center was following as a result of the
2 settlement with the DEA, would you have
3 audited those?
4 MR. NICHOLAS: Object to the
5 form.
6 THE WITNESS: It would
7 depend if it was part of the audit
8 checklist.
9 BY MR. CLUFF:
10 Q. Are you familiar with why
11 the Orlando distribution center lost its
12 DEA license?
13 A. I have a general
14 understanding that the DEA suspended the
15 license because they made the allegation
16 that we were not following the
17 regulation.
18 Q. Which regulation?
19 A. To report and identify
20 suspicious orders.
21 Q. Where did you obtain that
22 general understanding?
23 A. During the occurrence.
24 Q. So during the suspension of

Page 166

1 the Orlando distribution center's license
2 you became aware why the registration was
3 suspended?
4 MR. NICHOLAS: Object to the
5 form.
6 THE WITNESS: Yeah, I recall
7 the general allegation.
8 BY MR. CLUFF:
9 Q. Where did you hear about
10 that from?
11 A. I don't recall. Big news
12 back then.
13 Q. It was big news. People
14 talking about it in the halls?
15 MR. NICHOLAS: Object to the
16 form and the commentary.
17 Go ahead.
18 THE WITNESS: There was a
19 lot of discussions surrounding it.
20 BY MR. CLUFF:
21 Q. Were there meetings about
22 it?
23 A. Yes.
24 Q. Were reports written about

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1 it?
2 A. None that I'm specifically
3 aware of.
4 Q. Do you understand that
5 reports may have been written about it?
6 MR. NICHOLAS: Well, I'll
7 object to the form of that
8 question.
9 Go ahead.
10 THE WITNESS: I assume so.
11 None that I was directly involved
12 in -- involved with.
13 BY MR. CLUFF:
14 Q. You wouldn't have
15 participated in discussing the suspension
16 in your role as an auditor?
17 MR. NICHOLAS: Object to the
18 form.
19 THE WITNESS: You know,
20 right when that happened, my
21 father passed away, and I had to
22 take a leave of absence. So when
23 I got back, a lot of that -- a lot
24 of those changes had been -- had

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1 been completed or were in process,
2 and I was not part of that -- that
3 process.
4 BY MR. CLUFF:
5 Q. When I asked you if reports
6 were written about the suspension, you
7 said you assume so.
8 Why do you assume that they
9 would have been written?
10 MR. NICHOLAS: Object to the
11 form. And of course, Mr. Cluff
12 will be the first to tell you that
13 you shouldn't assume in an answer
14 to a question.
15 So go ahead.
16 THE WITNESS: When you have
17 an occurrence like that, I would
18 assume that it would, you know,
19 involve a chain reaction and a lot
20 of different departments would be
21 involved in handling the
22 suspension.
23 So I would assume, as a
24 previous auditor, that reports

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1 would have been generated as a
2 result of the action taken against
3 us.
4 BY MR. CLUFF:
5 Q. So based on your 13 years of
6 experience as an auditor, your
7 understanding is that an event like the
8 suspension of a distribution center's
9 license would result in the creation of
10 reports about why the suspension
11 occurred?
12 MR. NICHOLAS: Is that a
13 question?
14 MR. CLUFF: I'm exploring
15 his understanding, Bob.
16 MR. NICHOLAS: I just want
17 to hear it in the form of a
18 question. You're making a
19 statement.
20 MR. PIFKO: Just say "is
21 that correct."
22 BY MR. CLUFF:
23 Q. Is that correct?
24 MR. NICHOLAS: Yeah, say "is

<p style="text-align: right;">Page 170</p> <p>1 that correct?" Okay. And now I 2 can say object to the form of the 3 question. 4 THE WITNESS: Yeah, I would 5 assume that a lot of documentation 6 has generated as a result of the 7 suspension. Not necessarily in 8 report form, but a lot of general 9 documentation. I wasn't a part of 10 it. It was all handled above me. 11 So I can't really speak 12 specifically about what 13 documentation was generated. 14 BY MR. CLUFF: 15 Q. What kind of documentation 16 are we talking about -- or are you 17 talking about? 18 MR. NICHOLAS: I'll object 19 to the form of the question and 20 caution the witness not to make 21 assumptions. He should answer 22 questions -- 23 MR. CLUFF: Bob, you've 24 really got to stop coaching his</p>	<p style="text-align: right;">Page 172</p> <p>1 documentation was generated as a result 2 of the suspension." 3 Based on your experience, 4 13 years as an auditor at 5 AmerisourceBergen, what kind of 6 documentation would you have been 7 referring to when you testified to that? 8 MR. NICHOLAS: Object to the 9 form. 10 THE WITNESS: To clarify, I 11 wasn't exposed to documentation or 12 at least I don't recall 13 documentation that I was 14 specifically exposed to. So I'm 15 assuming that documentation was 16 generated. But I can't speak to 17 any detailed documentation that I 18 was exposed to. 19 BY MR. CLUFF: 20 Q. I'm not asking about a 21 detailed distribution of documentation. 22 I'm asking, based on your experience as 23 an auditor for 13 years at 24 AmerisourceBergen, what kind of</p>
<p style="text-align: right;">Page 171</p> <p>1 witness. He already testified 2 based on his work experience as an 3 auditor -- it's in the testimony. 4 You can read it -- that he 5 understands that reports like this 6 or documentation about a situation 7 like this would have been created. 8 I get to explore his 9 understanding of that, Bob. You 10 can make your objection. You can 11 say form. You can say foundation. 12 You can say whatever you want. 13 But don't tell this witness that 14 he's not allowed to assume. 15 That's coaching. 16 MR. NICHOLAS: You have to 17 stop asking misleading questions. 18 Go ahead. Answer the 19 question if you can. 20 BY MR. CLUFF: 21 Q. Let me ask this question a 22 different way. 23 You previously said, "Yeah, 24 I would assume that a lot of</p>	<p style="text-align: right;">Page 173</p> <p>1 documentation you understand would have 2 been created about the suspension in 3 Orlando? 4 A. I have no idea. 5 Q. But you anticipate, based on 6 your experience, 13 years at 7 AmerisourceBergen, that documentation 8 would have existed? 9 MR. NICHOLAS: Hold on. 10 Could you ask it in the form of a 11 question? It's not Jeopardy. You 12 just made a statement. Ask him a 13 question. Say "is that correct" 14 or "do you agree." 15 MR. CLUFF: I appreciate the 16 coaching, Bob. I really do. 17 Thank you. 18 MR. NICHOLAS: Well, your 19 own guy told you you have to ask 20 in a form of a question. 21 MR. CLUFF: Bob, seriously? 22 Stop. Just stop, Bob. Make your 23 objection for the record. And I 24 will clarify my question if I need</p>

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1 to.

2 MR. NICHOLAS: Objection.

3 Objection. No question has been

4 stated.

5 BY MR. CLUFF:

6 Q. Do you anticipate based on

7 your experience as an auditor at

8 AmerisourceBergen for 13 years that

9 documentation would have been created

10 about the suspension?

11 A. I would assume that

12 documentation was generated as a result

13 of the suspension.

14 Q. Do you have an

15 understanding, based on your 13 years of

16 experience at AmerisourceBergen, which

17 departments at AmerisourceBergen would

18 have been creating that documentation?

19 A. The departments that were

20 responsible for regulatory compliance and

21 action like that would have been legal

22 and corporate security regulatory

23 affairs.

24 Q. Setting legal aside, what --

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1 what aspects of the regulatory affairs

2 and corporate security department would

3 have been responsible for documenting or

4 producing documentation about the

5 suspension?

6 A. I don't know. Like I said

7 it was happening over my head, and I

8 wasn't directly involved in it. So I

9 can't really state any specific

10 documentation was generated or who

11 generated it or who was involved in it.

12 Q. Do you know if your boss,

13 Steve Mays, ever participated in any

14 discussions about the suspension in

15 Orlando?

16 A. I don't recall.

17 Q. Did you ever talk to Greg

18 Madsen about the suspension in Ohio?

19 A. I don't recall.

20 Q. Do you not recall or did it

21 not happen?

22 A. I think I answered the

23 question. I don't remember. It was a

24 long time ago.

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1 Q. Did you ever discuss the

2 suspension with Cathy Marcum?

3 A. Same answer. I have no

4 recollection of it.

5 Q. Did you ever discuss

6 suspension with Erica Burwell?

7 A. No recollection.

8 Q. Do you know if anybody

9 discussed the suspension with Erica

10 Burwell?

11 A. Not that I recall.

12 Q. So you previously

13 testified -- and I want to make sure I

14 understand your testimony correctly --

15 that the suspension was a big event for

16 AmerisourceBergen?

17 MR. NICHOLAS: Objection.

18 No --

19 BY MR. CLUFF:

20 Q. Is that correct?

21 MR. NICHOLAS: Good.

22 THE WITNESS: Yes, it was.

23 BY MR. CLUFF:

24 Q. Is it also your testimony

Page 177

1 that you can't recall whether or not

2 anybody talked about the suspension at

3 your level in 2007?

4 MR. NICHOLAS: Object to the

5 form.

6 THE WITNESS: I'm sure there

7 was discussion, but I just don't

8 recall any specific conversations

9 during that period of time.

10 BY MR. CLUFF:

11 Q. Do you know whether or not

12 anybody looked at the audit history for

13 Orlando after the suspension occurred?

14 A. No.

15 MR. NICHOLAS: Object to the

16 form.

17 BY MR. CLUFF:

18 Q. Do you know whether or not

19 anybody looked at the reports that were

20 written about Orlando after the

21 suspension occurred?

22 MR. NICHOLAS: Object to the

23 form.

24 THE WITNESS: No.

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1 BY MR. CLUFF:
2 Q. Do you know whose
3 responsibility it was to review audit
4 reports after they were created in
5 general between 2002 and 2005?
6 A. I believe that would have
7 been Steve Mays during that period.
8 Q. How about between 2005 and
9 2007?
10 A. Well, it was several people
11 that were involved. Steve Mays would
12 have been the one responsible for the
13 audit, assigning the audit. He would
14 have been the first one that we would
15 have discussed it with.
16 Q. So Steve Mays was
17 responsible for assigning the audit. Did
18 I get that correct?
19 A. Yes.
20 Q. And there were a number of
21 people involved, I think you said,
22 correct?
23 A. Yeah, in the -- in the
24 review process there was, yes.

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1 Q. But he would have been
2 ultimately responsible for reviewing
3 them, because he assigned them; is that
4 right?
5 A. Well, he would have been the
6 first step above the auditor that we
7 would have covered the findings with
8 initially concluding that. But then we
9 would have -- we would run through those
10 findings with the DC as well, so -- from
11 the CSRA standpoint, he was the one that
12 we immediately worked with.
13 Q. Do you know if there was
14 anybody else above Steve Mays that was
15 responsible for reviewing audit reports?
16 A. I don't remember what the
17 structure was back then.
18 Q. Do you recall who Steve Mays
19 reported to during 2005 -- between 2005
20 and 2007?
21 A. I don't recall.
22 Q. Do you know if Chris
23 Zimmerman would have reviewed audit
24 reports between 2005 and 2007?

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1 A. Well, Chris was our VP over
2 CSRA, so I can't confirm, but he
3 certainly was concerned about the audit
4 findings.
5 Q. You started working with
6 Chris Zimmerman in '96 at Bergen
7 Brunswick, correct?
8 A. Yes.
9 Q. So you've worked with him
10 through your entire career?
11 A. That's a correct statement.
12 Q. Are you pretty familiar with
13 his work habits?
14 MR. NICHOLAS: Object to the
15 form.
16 THE WITNESS: I don't know
17 what you mean by work habits.
18 BY MR. CLUFF:
19 Q. Does he check his e-mails
20 regularly?
21 A. Yes.
22 Q. Does he document the things
23 that he's concerned about?
24 MR. NICHOLAS: Object to the

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1 form.
2 THE WITNESS: Yes.
3 BY MR. CLUFF:
4 Q. Does he like to create a
5 paper trail on things that are happening
6 during his work?
7 MR. NICHOLAS: Object to the
8 form.
9 THE WITNESS: I don't know
10 if he likes to create paper
11 trails. We document what we do
12 generally.
13 BY MR. CLUFF:
14 Q. So there was a practice of
15 documenting things that happened at the
16 company?
17 A. Yes.
18 Q. Do you know, based on your
19 long history of working with Chris
20 Zimmerman, whether or not he would have
21 documented his review of a report about
22 the Orlando distribution center?
23 MR. NICHOLAS: Object to the
24 form.

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1 THE WITNESS: I have no idea
2 what Chris did with regards to
3 that.
4 BY MR. CLUFF:
5 Q. After an event like the
6 Orlando suspension, do you know, based on
7 your history of working with Chris, what
8 he would have wanted to review to figure
9 out what the problem was?
10 MR. NICHOLAS: Object to the
11 form.
12 THE WITNESS: I wouldn't --
13 I wouldn't want to speculate on
14 that.
15 BY MR. CLUFF:
16 Q. Would he have written
17 e-mails to people about the distribution
18 center suspension or would he have called
19 people about it?
20 MR. NICHOLAS: Object to the
21 form.
22 THE WITNESS: Again, I
23 wouldn't want to speculate on what
24 Chris did with regard to that,

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1 with regards to that.
2 BY MR. CLUFF:
3 Q. When Chris had concerns
4 about your work product did he e-mail you
5 about it or did he call you about it?
6 A. Both.
7 Q. Do you think he would have
8 responded any differently about the
9 Orlando distribution center suspension?
10 MR. NICHOLAS: Object to the
11 form.
12 THE WITNESS: Again, I
13 wouldn't speculate.
14 BY MR. CLUFF:
15 Q. Do you have any reason to
16 believe that he would have acted
17 differently?
18 MR. NICHOLAS: Object to the
19 form.
20 THE WITNESS: Again, I
21 wouldn't speculate how he would
22 react to that.
23 BY MR. CLUFF:
24 Q. Did you ever receive any

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1 e-mails about the Orlando suspension?
2 A. I don't recall.
3 Q. If there were, they would be
4 in your files, correct?
5 A. They would be within our
6 system, yes.
7 Q. Do you recall ever reviewing
8 any memorandums about -- or memoranda
9 about the Orlando suspension?
10 A. No specific recollection.
11 Q. Did you ever write a memo
12 about the Orlando suspension?
13 A. I don't recall.
14 Q. Did your responsibilities as
15 an auditor change because of the
16 suspension?
17 A. Again, you know, our audit
18 is governed by internal policy and the
19 audit checklist evolves over time. So
20 whatever the checklist evolved to would
21 have been what I would have done
22 differently from -- from pre to
23 post-Orlando suspension.
24 Q. So you were conducting

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1 audits between 2002 and 2015 as either a
2 manager or supervisor of regulatory
3 compliance, a director and a regional
4 director. Did I get all the titles
5 right?
6 MR. NICHOLAS: Object to the
7 form.
8 THE WITNESS: It would have
9 been regional supervisor, regional
10 manager, regional director.
11 BY MR. CLUFF:
12 Q. Got it. And during that
13 time when you conducted audits, you
14 basically just filled out a checklist,
15 right?
16 MR. NICHOLAS: Object to the
17 form.
18 THE WITNESS: We would
19 conduct the audit and we would
20 complete the checklist, you know,
21 pursuant to the policy at that
22 time.
23 BY MR. CLUFF:
24 Q. And then write a report?

<p style="text-align: right;">Page 186</p> <p>1 A. The report would contain any 2 findings that we had on the audits that 3 we conducted, yes. 4 Q. You had no responsibility 5 for identifying or reporting suspicious 6 orders, right? 7 A. During -- during 2000 -- 8 Q. 2002 to 2015. 9 A. I would say that's a true 10 statement, yes. 11 Q. You were just filling out 12 audit checklists? 13 MR. NICHOLAS: Object to the 14 form. Asked and answered. 15 THE WITNESS: I would say 16 that, yeah, we were conducting the 17 audit and we were documenting 18 findings that we had pursuant to 19 that audit checklist. 20 BY MR. CLUFF: 21 Q. It's kind of like the job 22 you had when you were at Bergen 23 Brunswick, right, you were documenting 24 the investigations?</p>	<p style="text-align: right;">Page 188</p> <p>1 documenting them on the report, 2 yes. 3 BY MR. CLUFF: 4 Q. So you said in 2015 you 5 became the director of diversion control, 6 and that was approximately February 2015? 7 A. Yes. 8 Q. Was that a step up from your 9 role as a regional director or was that a 10 lateral step? I'm just trying to 11 understand the hierarchy. 12 A. It was considered a lateral 13 move. 14 Q. Did you lateral out of 15 regulatory and security compliance? 16 A. Well, it was a -- the 17 diversion team was a unit within CSRA. 18 So it was just a little subunit of the 19 entire CSRA department. 20 MR. NICHOLAS: Sterling, if 21 you're transitioning, do you think 22 it's a good time for a break? 23 I -- I don't want to stop your 24 flow here, but it's been --</p>
<p style="text-align: right;">Page 187</p> <p>1 MR. NICHOLAS: Object to the 2 form. 3 THE WITNESS: Under Bergen 4 Brunswick I wasn't documenting 5 investigations. I was conducting 6 licensing and subpoena work. 7 BY MR. CLUFF: 8 Q. You said that you were 9 typing up interrogations and 10 investigations between, you know, sort of 11 the beginning of '98 and the middle of 12 '98, right? 13 A. Yeah, I was -- I was typing 14 transcriptions, that's correct. 15 Q. Recording information? 16 A. Correct. 17 Q. So you were still just kind 18 of recording information when you 19 performed these checklists, right? 20 MR. NICHOLAS: Well, I'll 21 object to the form. 22 THE WITNESS: Yeah, we were 23 conducting the audit. We were 24 identifying deficiencies and then</p>	<p style="text-align: right;">Page 189</p> <p>1 MR. CLUFF: No, I appreciate 2 that. Let's just finish up your 3 responsibilities as the director 4 of diversion control, and then 5 we'll break for lunch. How is 6 that? 7 MR. NICHOLAS: Perfect. 8 BY MR. CLUFF: 9 Q. Okay. So this was a lateral 10 move, and was there a change in 11 responsibilities? 12 A. Yeah. Somebody took over my 13 old job. 14 Q. And then did your -- like 15 your area of responsibility change? 16 A. I'm not sure I understand 17 your question. 18 Q. Were you still conducting 19 audits when you became the director of 20 diversion control in 2015? 21 A. No, sorry. Yes. During the 22 time I transitioned from regional 23 director to director of diversion 24 control, my duties did change at that</p>

<p style="text-align: right;">Page 190</p> <p>1 point.</p> <p>2 Q. And what, what was that</p> <p>3 change?</p> <p>4 A. Well, I gave up my region</p> <p>5 and I -- and I assumed the responsibility</p> <p>6 of director of diversion control for ABC.</p> <p>7 Q. What is your responsibility</p> <p>8 as the director of diversion control?</p> <p>9 A. I manage the program. The</p> <p>10 investigators, my analysts report to me,</p> <p>11 so I work directly with our pharmacist</p> <p>12 director to run the program and we report</p> <p>13 up to David May.</p> <p>14 Q. Is the pharmacist director,</p> <p>15 is that Sharon Hartman?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. So you said that you</p> <p>18 gave up your region and you became the</p> <p>19 director of diversion control. And then</p> <p>20 you were responsible for overseeing the</p> <p>21 entire diversion control program for</p> <p>22 AmerisourceBergen?</p> <p>23 MR. NICHOLAS: Object to the</p> <p>24 form.</p>	<p style="text-align: right;">Page 192</p> <p>1 monitoring program and -- and the due</p> <p>2 diligence collection, yes.</p> <p>3 Q. But prior to February of</p> <p>4 2015, you had never held a position where</p> <p>5 you were responsible for diversion</p> <p>6 control at all, correct?</p> <p>7 A. Other than in a very limited</p> <p>8 capacity as a regional director and I --</p> <p>9 Q. I'm sorry, I interrupted</p> <p>10 you.</p> <p>11 A. As part of the -- as part of</p> <p>12 the conducting the audits of the</p> <p>13 distribution centers.</p> <p>14 Q. So your limited</p> <p>15 responsibility for diversion control</p> <p>16 prior to becoming the director of</p> <p>17 diversion control was to audit diversion</p> <p>18 control procedures at a distribution</p> <p>19 center, right?</p> <p>20 MR. NICHOLAS: Object to the</p> <p>21 form.</p> <p>22 THE WITNESS: Yeah, prior to</p> <p>23 taking over the diversion program</p> <p>24 as director of diversion control,</p>
<p style="text-align: right;">Page 191</p> <p>1 THE WITNESS: Yes. We -- we</p> <p>2 operate the day-to-day management</p> <p>3 of the program.</p> <p>4 BY MR. CLUFF:</p> <p>5 Q. So now you operate the</p> <p>6 day-to-day diversion control program for</p> <p>7 AmerisourceBergen. I just want to</p> <p>8 understand the scope.</p> <p>9 A. That's correct.</p> <p>10 Q. And you and Sharon Hartman,</p> <p>11 did I get that right?</p> <p>12 A. Yes.</p> <p>13 Q. You manage the investigators</p> <p>14 and the analysts and run the entire</p> <p>15 program?</p> <p>16 MR. NICHOLAS: Object to the</p> <p>17 form.</p> <p>18 BY MR. CLUFF:</p> <p>19 Q. Is that right?</p> <p>20 A. I wouldn't say -- I mean,</p> <p>21 it's all a shared responsibility. David</p> <p>22 May handles a lot of the -- the higher</p> <p>23 level elements of the program. I manage</p> <p>24 the day-to-day operation of the order</p>	<p style="text-align: right;">Page 193</p> <p>1 prior to that I was responsible</p> <p>2 for, you know, completing the</p> <p>3 audit checklist and that portion</p> <p>4 of the audit checklist that</p> <p>5 pertained to diversion and</p> <p>6 control, yes.</p> <p>7 BY MR. CLUFF:</p> <p>8 Q. So prior to becoming the</p> <p>9 director of diversion control, you never</p> <p>10 had any responsibility for managing</p> <p>11 anybody who was identifying or detecting</p> <p>12 suspicious orders?</p> <p>13 MR. NICHOLAS: Object to the</p> <p>14 form.</p> <p>15 THE WITNESS: Other than in</p> <p>16 a very limited manner with my</p> <p>17 compliance managers that reported</p> <p>18 to me and they had</p> <p>19 responsibilities at the</p> <p>20 distribution center level, again</p> <p>21 in a limited capacity. So they</p> <p>22 reported up to me. So just to</p> <p>23 clarify that.</p> <p>24 BY MR. CLUFF:</p>

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1 Q. And that was in your
2 responsibility as an auditor though,
3 correct?
4 A. As an auditor and a regional
5 director for my region. So I was only
6 responsible for those compliance matters
7 within my region with regards to that
8 responsibility.
9 Q. Those compliance managers,
10 were those called RPICs?
11 A. No.
12 Q. Is there an abbreviation for
13 compliance managers at all?
14 A. Just compliance manager.
15 Q. What's an RPIC?
16 A. RPIC stands for responsible
17 person in charge.
18 Q. And who would that have
19 been?
20 MR. NICHOLAS: Object to the
21 form.
22 BY MR. CLUFF:
23 Q. At a distribution center?
24 A. So there are a number of

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1 distribution center associates who -- who
2 were specially trained and had
3 responsibility to review the first line
4 order when it went into a hold.
5 Q. Would --
6 A. And per procedure they would
7 look at it, they would assess it and they
8 would either release it or escalate it to
9 the corporate diversion team.
10 Q. But you didn't have
11 responsibility for them, did you?
12 A. No, they -- they reported to
13 operations.
14 Q. Okay. So between 2002 and
15 2015, I just want to get the time periods
16 correct, you were responsible for
17 overseeing compliance managers, correct?
18 A. No, that's not correct.
19 Q. Okay.
20 A. Prior to 2007 the compliance
21 managers didn't report up to us.
22 Q. Who did they report to?
23 A. The -- the distribution
24 center manager for the DC.

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1 Q. So between 2002 and 2007,
2 you had no diversion control
3 responsibility then, correct?
4 A. I wouldn't say that's true.
5 The compliance managers didn't report to
6 us, but we still conducted audits and
7 I -- and I conducted investigations for a
8 period of time.
9 Q. So from 2007 -- 2002 to
10 2007, your only responsibility for
11 diversion was to audit diversion at the
12 distribution centers?
13 MR. NICHOLAS: Object to the
14 form. It's not a question.
15 THE WITNESS: We conducted
16 the -- the distribution center
17 audits during that period of time.
18 So in the capacity of a -- back
19 then I guess I was a regional
20 supervisor, I believe. So I
21 would -- I would -- I would
22 monitor the distribution centers
23 for the -- for the diversion
24 program.

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1 BY MR. CLUFF:
2 Q. You were monitoring --
3 strike that.
4 And then after 2007 you
5 accepted responsibility for managing the
6 compliance managers at the distribution
7 centers, right?
8 MR. NICHOLAS: Object to the
9 form.
10 THE WITNESS: They began
11 reporting to us post 2007.
12 BY MR. CLUFF:
13 Q. And they had a limited
14 diversion control responsibility, if I
15 understand it correctly?
16 A. Yes.
17 Q. So you had a limited
18 responsibility for diversion control
19 because you oversaw them?
20 MR. NICHOLAS: Object to the
21 form.
22 THE WITNESS: We oversaw
23 them with regards to their
24 responsibilities within the policy

<p style="text-align: right;">Page 198</p> <p>1 procedures for diversion control.</p> <p>2 BY MR. CLUFF:</p> <p>3 Q. And the only other</p> <p>4 responsibility for diversion control</p> <p>5 between 2007 and 2015 you had was</p> <p>6 auditing, correct?</p> <p>7 MR. NICHOLAS: Object to the</p> <p>8 form.</p> <p>9 THE WITNESS: Yeah. I was</p> <p>10 responsible for my region, and I</p> <p>11 audited other divisions.</p> <p>12 BY MR. CLUFF:</p> <p>13 Q. And then in 2015 you took</p> <p>14 over shared responsibilities with Sharon</p> <p>15 Hartman under David May for the entire</p> <p>16 diversion control program at</p> <p>17 AmerisourceBergen?</p> <p>18 MR. NICHOLAS: Object to the</p> <p>19 form asked and answered. Go</p> <p>20 ahead.</p> <p>21 THE WITNESS: That's</p> <p>22 correct.</p> <p>23 MR. CLUFF: I think that's a</p> <p>24 good place to break.</p>	<p style="text-align: right;">Page 200</p> <p>1 A. Yes, I do.</p> <p>2 Q. All right. Before the</p> <p>3 break, you mentioned that you had some</p> <p>4 investigative responsibilities as well</p> <p>5 after you moved to Philadelphia, or</p> <p>6 Pennsylvania, correct?</p> <p>7 A. In the form of -- yeah, I</p> <p>8 was a regional director, you know, during</p> <p>9 that period of time. And I did have some</p> <p>10 investigative responsibilities.</p> <p>11 Q. Okay. What specifically</p> <p>12 were your investigative responsibilities</p> <p>13 at that time? And let's be clear about</p> <p>14 dates. So when was the first time that</p> <p>15 you took on investigative</p> <p>16 responsibilities?</p> <p>17 A. I conducted various</p> <p>18 investigations throughout my tenure as a</p> <p>19 regional director, supervisor, manager</p> <p>20 throughout that period.</p> <p>21 Q. And that was from 2002 to</p> <p>22 2015?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. So when you took the</p>
<p style="text-align: right;">Page 199</p> <p>1 THE VIDEOGRAPHER: Going off</p> <p>2 the record. 12:40 p.m.</p> <p>3 (Lunch break.)</p> <p>4 THE VIDEOGRAPHER: Back on</p> <p>5 the record. 1:23 p.m.</p> <p>6 MR. NICHOLAS: For the</p> <p>7 record, counsel has switched</p> <p>8 questioners. I'm assured that</p> <p>9 this is permitted by the rules,</p> <p>10 and I believe them. So you may</p> <p>11 proceed.</p> <p>12 MR. PIFKO: All right.</p> <p>13 Thank you.</p> <p>14 - - -</p> <p>15 EXAMINATION</p> <p>16 - - -</p> <p>17 BY MR. PIFKO:</p> <p>18 Q. My name is Mark Pifko. I</p> <p>19 also represent the plaintiffs in this</p> <p>20 matter. I'm going to be asking you some</p> <p>21 questions. Okay?</p> <p>22 A. Yes.</p> <p>23 Q. Do you understand that</p> <p>24 you're still under oath?</p>	<p style="text-align: right;">Page 201</p> <p>1 job in 2002, we talked about that</p> <p>2 earlier, that was a new job, correct?</p> <p>3 A. It was new --</p> <p>4 Q. New responsibilities?</p> <p>5 A. Yes.</p> <p>6 Q. And among those</p> <p>7 responsibilities was performing or</p> <p>8 supervising investigations; is that</p> <p>9 correct?</p> <p>10 A. Well, I didn't really</p> <p>11 supervise investigations. I conducted</p> <p>12 investigations as part of my role of</p> <p>13 being a regional director.</p> <p>14 Q. Okay. You conducted all</p> <p>15 the -- to the extent an investigation was</p> <p>16 conducted while you were regional</p> <p>17 director, it was conducted exclusively by</p> <p>18 you?</p> <p>19 MR. NICHOLAS: Object to the</p> <p>20 form.</p> <p>21 THE WITNESS: I would</p> <p>22 conduct my own investigations. I</p> <p>23 also worked with our investigative</p> <p>24 team on certain investigations</p>

<p style="text-align: right;">Page 202</p> <p>1 depending on what we were 2 investigating. 3 BY MR. PIFKO: 4 Q. Okay. Let's talk about the 5 nature and scope of the investigations 6 that you conducted. Were there different 7 types of investigations that you 8 conducted? 9 A. Yes, a whole array. 10 Q. All right. Can you name 11 some of them today? 12 A. As a regional director, I 13 did a lot of theft investigations. I 14 think that would be the lion's share of 15 the investigation types that I conducted. 16 Q. And -- 17 A. In -- 18 Q. I'm sorry. Continue. I 19 don't want to interrupt you. 20 A. In addition to that, I did 21 construct investigations from 2005 to 22 2007. I would review what we call the 23 possible suspicious order reports. And 24 this was a function that was assigned to</p>	<p style="text-align: right;">Page 204</p> <p>1 the Philadelphia DEA office. I worked 2 with him closely on an investigation when 3 I was in the middle of transitioning from 4 Orange, California to Philadelphia. It 5 was a long -- a nearly two-year 6 investigation I worked very closely with 7 him on. 8 Q. What was the nature of the 9 investigation? 10 A. It was Highland Park 11 Pharmacy. We were working with him from 12 the beginning of that investigation, and 13 we were giving him sales reports for the 14 customer that was being investigated. 15 Like I said, it was an in-depth, long 16 investigation, and during that period of 17 time I became pretty friendly with Scott. 18 He's a personal friend today. We 19 actually got awarded as a result of that. 20 I have a plaque in my office from the DEA 21 and the contributions to the field of law 22 enforcement in the drug distribution 23 industry. 24 So that -- I worked with him</p>
<p style="text-align: right;">Page 203</p> <p>1 me as a collateral duty outside of my 2 responsibility as regional director. 3 Q. Did you ever interact with 4 anyone from the DEA when you became a 5 regional director? 6 A. Yeah. I had a lot of 7 interaction with DEA, special agents as 8 well as diversion investigators. 9 Q. Again, I want to make sure 10 we're talking about a clear time period, 11 but over your tenure as a regional 12 director, can you name some of the names 13 of DEA agents that you interacted with? 14 A. Scott Davis, Philadelphia 15 DEA, was one. 16 There were so many. He's 17 really the guy that comes to mind right 18 now. 19 Q. So Scott Davis was the 20 primary DEA agent who was visiting 21 facilities that you had responsibility 22 for; is that correct? 23 A. No, I wouldn't say that. 24 He -- he is one of the investigators with</p>	<p style="text-align: right;">Page 205</p> <p>1 a lot on the local distribution centers, 2 Thorofare, New Jersey; Bethlehem 3 Pennsylvania. 4 Q. Highland Park Pharmacy, 5 that's a pharmacy in Philadelphia? 6 A. They're located in a suburb 7 of Philadelphia. I believe they were 8 near Newtown Square or in that general 9 area. 10 Q. Do you know what the outcome 11 of that investigation was? Was there an 12 action taken against that pharmacy? 13 A. Yes. That owner went to 14 prison. 15 Q. Do you know what the basis 16 of the charges was? 17 A. It was I believe diversion 18 of narcotics. 19 Q. What specifically? Opioids? 20 A. Yeah, I don't remember the 21 specific drug families but it was 22 certainly opioids. 23 Q. And do you know what the 24 nature of the conduct specifically was</p>

<p style="text-align: right;">Page 206</p> <p>1 with respect to the diversion, what 2 was -- what was occurring at that 3 pharmacy? 4 A. The DEA doesn't share 5 specifics of their investigations with 6 industry. So we pretty much worked with 7 him on providing him sales reports for 8 that extended period of time. But, just 9 the way law enforcement works, they don't 10 share specific information due to its 11 confidential nature. 12 Q. Based on the information 13 that you provided to Mr. Davis, was the 14 pharmacy selling high volumes of 15 controlled substances? 16 MR. NICHOLAS: Object to the 17 form. 18 THE WITNESS: Yes, they 19 were -- they were buying very high 20 volumes of narcotics. 21 BY MR. PIFKO: 22 Q. Do you remember estimating 23 the proportion of opioids versus their 24 total sales from AmerisourceBergen?</p>	<p style="text-align: right;">Page 208</p> <p>1 investigation, how you came to be 2 involved with -- did someone at the 3 company call you and say we need you to 4 work with this DEA agent or did they call 5 you directly? 6 A. That -- that investigation 7 started when I was working for Bergen 8 Brunswick in a capacity of regulatory 9 specialist I think my title was. 10 So I was responsible for 11 subpoenas for the company as I had 12 indicated previously. So Scott contacted 13 me or his request gravitated to me and I 14 began working with him I believe around 15 the 2000 time frame and through my 16 promotion to becoming a regional 17 supervisor when I moved to Pennsylvania. 18 Q. Okay. Did the company -- 19 the -- the company, so, when you -- what 20 was that title you said that you had when 21 you were -- so you said you were a 22 security officer when you started and 23 then you moved into this other job? 24 A. I believe it was a</p>
<p style="text-align: right;">Page 207</p> <p>1 A. I don't recall the 2 specifics. 3 Q. Okay. Have you heard the 4 concept of a red flag? 5 A. Yes, it's a general term we 6 use. 7 Q. Okay. Have you heard that 8 one of the red flags of diversion is the 9 proportionality of controlled substances 10 to a customer's total substances they 11 purchase from a distributor, have you 12 heard that before? 13 A. Yes, I have. 14 Q. Okay. Regardless of whether 15 you remember the specific number that 16 this pharmacy was buying, do you recall 17 that -- proportionality being one of the 18 red flags of diversion for that pharmacy? 19 A. I don't recall. It was too 20 long ago. This was almost -- this was 21 18 years ago. So it's just too long ago 22 for me to remember specifics about that 23 particular investigation. 24 Q. Do you recall how that</p>	<p style="text-align: right;">Page 209</p> <p>1 regulatory specialist -- 2 Q. Okay. 3 A. -- but I'm not sure about 4 that. It is just something that seems to 5 ring a bell. 6 Q. Did the company have a 7 database where they kept subpoenas and 8 investigative requests of that nature 9 that you were responsible for responding 10 to in a centralized location? 11 A. Yeah. In that time period 12 we had, we had a system. 13 Q. Okay. What was the name of 14 that system? 15 A. I believe it was law -- Law 16 Track or Law Pack. I think it 17 transitioned from one to the other, but 18 again, that was a long time ago. 19 Q. Okay. So then when -- after 20 the merger occurred, do you know what the 21 system that would have been used to 22 centralize this request was? 23 A. I think we moved it into Law 24 Track.</p>

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1 Q. Okay.

2 A. I think the previous system

3 was Law Pack.

4 Q. Do you know the period for

5 how long those kinds of investigations

6 and requests would be maintained on that

7 system?

8 A. Well, they were maintained

9 from that point all the way until, you

10 know, roughly in the last year or two

11 when we switched systems.

12 Q. Okay. And then when you

13 switched systems, what -- what did you do

14 with the data, do you know?

15 A. The data was transferred to

16 another system for maintenance, and it's

17 still there. It's still retrievable by

18 us.

19 Q. Okay. Is that -- from time

20 to time do you ever go back and, for

21 business reasons, look at that data?

22 A. I do. I don't do it as much

23 as my investigators do. They are the

24 ones that are doing the day-to-day

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1 investigations for the most part. But

2 they do go in there readily. I mean,

3 that's where all the old information is

4 so...

5 Q. Okay. You said you do from

6 time -- you have on occasion?

7 A. Yes.

8 Q. Okay. Is there like a --

9 how do you access that, is there like a

10 portal you have to log into?

11 A. Yes.

12 Q. Okay. And when you log into

13 that, and you can keyword search it or

14 something, how does it work?

15 Yeah?

16 A. Yeah. There's two systems.

17 There's Matter Management that we put our

18 new information into. And then that --

19 the other system, I'm -- I'm sorry, the

20 name escapes me what it's called. But

21 we -- we have ready access to both

22 systems.

23 Q. Okay. What are the types of

24 occasions on which you would -- you would

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1 seek to obtain information from that

2 historic system?

3 A. During any investigation.

4 If we're looking into a customer and we

5 want to see their background, what we

6 have in their due diligence file, we

7 would go into either system to see what

8 we have on them. So that would be a

9 result of investigations or subpoenas,

10 any number of reasons.

11 Q. Okay. And as far as you

12 know, the -- the subpoenas, investigative

13 reports, and the company's responses to

14 those reports, are maintained

15 indefinitely on that system?

16 A. I believe so.

17 Q. Okay. So do you recall any

18 other -- other than Scott Davis, any

19 other DEA agents that you interacted

20 with?

21 A. Yeah, there were a lot of

22 them. Doug Crawford in the -- in the

23 Columbus area. I dealt with him. A lot

24 of groups of advisors, a lot of

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1 investigators. There's so many of them.

2 I don't really deal with them very often

3 anymore, so this is -- you know, years

4 ago that I was dealing with these people,

5 so...

6 Q. I understand we're talking

7 about a time period that was earlier and

8 maybe there's a lot of names. But it

9 just -- it would help if you can remember

10 any other names. I know it's kind of an

11 odd question.

12 But so you remember Scott

13 Davis, Doug Crawford. Any other names?

14 A. I didn't really prepare for

15 this question, so no, none -- none of

16 those come to my mind right now.

17 Q. Mr. Crawford in Columbus, is

18 there -- is there a reason why you

19 remember his name?

20 A. He's conducted audits of our

21 distribution center.

22 Q. Okay. And he conducted

23 audits of distribution centers for which

24 you had responsibility?

<p style="text-align: right;">Page 214</p> <p>1 A. I'm not sure if I had 2 responsibility at the Columbus 3 distribution center when he audited us. 4 I may have. I'd have to check the 5 records for that. 6 Q. That was my -- my next 7 question. Did you have any 8 responsibility for distribution centers 9 in Ohio? 10 A. Yes, at one time. 11 Q. Okay. And what time was 12 that? 13 A. I don't recall. I'd have to 14 check, check the -- the system for the 15 time period that I had the -- I had the 16 Chicago and the Columbus distribution 17 centers within my region, but I don't 18 recall the exact dates. 19 Q. When you say check the 20 system, what would you check? 21 A. I'm sure that within the 22 system there would be documentation that 23 indicates the assignments that we had and 24 which distribution centers were, you</p>	<p style="text-align: right;">Page 216</p> <p>1 Q. If you wanted to access it, 2 how would you go to find that? 3 A. It's a good question. I'm 4 not really sure where it would be. We'd 5 have to search for it. 6 Q. Do you have -- do you have 7 network drives on your system, does that 8 mean anything to you? 9 A. Not sure. 10 Q. You understand that you can 11 save something onto your computer, right, 12 like on the C drive. But do you have 13 like a shared drive where you save 14 certain -- certain documents that you 15 would look at or other people can save 16 documents to? 17 A. Yes, we have a shared drive. 18 Q. Okay. What's the name of 19 it? 20 A. I call it the S drive. 21 Q. Okay. And to your knowledge 22 how long has that been in use? 23 A. A long time. I don't 24 remember when it started.</p>
<p style="text-align: right;">Page 215</p> <p>1 know, located within the region that I 2 had responsibility for. 3 Q. Is there like a name of a 4 document that would say who was assigned 5 to what, that you can think of? 6 A. I don't recall what the name 7 of the document would be. 8 Q. Okay. But there's some sort 9 of document that says, these are the 10 distribution centers within this person's 11 responsibility, these are the ones within 12 this person's responsibility; is that 13 correct? 14 A. Yeah. It should be usually 15 a United States map and it breaks down 16 which investigators had responsibility 17 for which DCs. 18 Q. Okay. And how was that 19 maintained in the company's files? 20 A. I would say that it's kept 21 in general correspondence. Steve Mays 22 assigned it. And a lot of times we -- it 23 was based on sales region and then we 24 broke away from that.</p>	<p style="text-align: right;">Page 217</p> <p>1 Q. So dating back to like 2002 2 when you were regional director, do you 3 believe you would access the S drive at 4 that time? 5 A. I don't think so. 6 Q. Okay. So some time after 7 that? 8 A. I'm not sure but I would 9 think that it was -- it's so long ago, I 10 don't recall. 11 Q. Okay. Well, do you recall 12 accessing documents or saving documents 13 to the S drive when you were a regional 14 director at any point? 15 A. Yes. 16 Q. Okay. Is that a way that 17 you would have shared information 18 among -- so obviously there's a region, 19 so there's other people would you need to 20 interact with. You might need to 21 interact with your boss. Is that a way 22 that you would have saved documents so 23 that you could communicate with each 24 other?</p>

<p style="text-align: right;">Page 218</p> <p>1 A. Yeah, we called it a shared 2 file. So it was a -- it was a file that 3 everybody had access to, so we could put 4 documents on there, and everybody had 5 access to them. So that's a correct 6 statement. 7 Q. Okay. So from time to time 8 you might have a meeting and someone 9 could say, oh, pull up the document, and 10 everyone could open it and see what was 11 there? 12 A. Yes. 13 Q. Okay. So we would be able 14 to know the -- the distribution centers 15 for which you were responsible by 16 accessing these historical records? 17 A. Yes. 18 Q. Okay. And you -- you -- 19 what was the distribution center in 20 Columbus, was it in the Columbus proper 21 or was it in a suburb outside of 22 Columbus? 23 A. I'm trying to remember the 24 town that it's -- that it's in. I can't</p>	<p style="text-align: right;">Page 220</p> <p>1 that. 2 Q. Have you ever heard of Mike 3 Mapes? 4 A. Yes. 5 Q. Okay. He was a DEA agent, 6 correct? 7 A. Yes, he was. 8 Q. And he was also a consultant 9 that was hired by the company, correct? 10 A. Yes, he was. 11 Q. Okay. Did you ever interact 12 with Mr. Mapes when he was a DEA agent? 13 A. A lot, yes. 14 Q. Okay. What was the -- 15 A. I'm sorry, when he was an 16 agent? 17 Q. Yeah. 18 A. Yeah, I worked with him when 19 we transitioned our renewal process from 20 individual DEA license renewals to the 21 batch renewal. He was chief of 22 E-commerce back then. So I worked 23 closely with him in -- in transitioning. 24 I think we were the first large</p>
<p style="text-align: right;">Page 219</p> <p>1 think of the town that it's in. It's a 2 suburb of Columbus. 3 Q. I believe it seems to have 4 been Lockbourne. Is that -- 5 A. Yes. 6 Q. Is that the facility that -- 7 A. That's it. 8 Q. So when you refer to 9 Columbus, that's the facility you're 10 thinking of? 11 A. That's correct. 12 Q. Okay. Any other -- so -- so 13 Doug Crawford conducted some audits of 14 the Lockbourne facility and that's how 15 you remember interacting with him? 16 A. I remember one that he 17 conducted recently. I don't know any -- 18 any of the -- I can't confirm any audits 19 that he conducted other than the one I'm 20 thinking of. 21 Q. And that was recently, you 22 said? 23 A. I would say in the last five 24 years. I can't really pinpoint beyond</p>	<p style="text-align: right;">Page 221</p> <p>1 wholesaler that transitioned to the batch 2 renewal system, and so they used us sort 3 of as a -- as a model to try it out first 4 and then the other -- the other rest of 5 the industry followed us. So I believe 6 that's my recollection, that we were the 7 first to do that. So I did have a lot of 8 discussions with -- with Mike. 9 Q. Do you recall a rough time 10 period when that occurred? 11 A. I want to say pre-2000. 12 Probably '95 -- or probably '98. 13 Q. Okay. 14 A. Maybe around '98. It was 15 pre -- pre me moving to Pennsylvania. 16 Q. And then did you continue to 17 interact with Mr. Mapes on other 18 occasions after moving to -- away from 19 California? 20 A. Yeah. Several different 21 occurrences where I spoke to him. 22 Q. Okay. Can you name some of 23 the issues that you worked on with him? 24 A. Well, he was chief of</p>

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1 e-commerce, so we had to get
2 clarification from him quite a few times
3 on regulations. We transitioned to the
4 CSOS program at one point. And I headed
5 up that transition. And so I worked
6 closely with Mike. In that -- same thing
7 with the batch renewal. We were one of
8 the first distribution centers in the
9 industry to transition to CSOS. So I
10 worked closely with him during that
11 period of time regarding that transition.
12 Q. Do you have an understanding
13 of the timing, about when that was?
14 A. It started pre -- pre me
15 starting with the company. I think CSOS
16 started around '95. And I think we
17 transitioned -- I don't recall exactly.
18 I think it was the early 2000s.
19 Q. What does CSOS stand for?
20 A. Controlled Substance
21 Ordering System.
22 Q. Okay. And can you tell me
23 what that is?
24 A. So for years DEA had the

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1 paper 222 form, narcotic order form.
2 It's in triplicate. It has ten line
3 items that a customer could fill in to
4 receive narcotics. So they finally
5 switched over to an electronic 222
6 program that took away the paper form
7 that's printed in triplicate and allowed
8 customers to place orders electronically
9 through encryption. And a lot of DEA
10 technology involved, so that can be
11 completed, you know, without the paper
12 forms. So that's really the next
13 generation of the narcotic paper order
14 forms.
15 Q. And so that's the way that
16 customers place an order with the
17 company, using that system?
18 A. Not all customers. A lot of
19 customers are still on the old paper 222
20 forms, a lot of the old pharmacists that
21 are not really technology savvy. But all
22 the new customers pretty much
23 transitioned to the CSOS program, yes.
24 Q. And this started in the

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1 early 2000 period?
2 A. I can't remember the date.
3 But it was right around that -- it might
4 have been the late '90s.
5 Q. If a customer uses a paper
6 order form, they have to -- how do they
7 send it to you? Fax it or mail it?
8 A. Yeah, they could -- they
9 could send it any number of ways. They
10 could mail it. They could send it with
11 the driver who delivers their shipment,
12 and then give it to them in an envelope,
13 and then it goes back with the driver.
14 They can fax it to us. There's a lot of
15 ways that we -- that we receive paper 222
16 forms from our customers.
17 Q. And then when customers use
18 the electronic ordering system, they have
19 some sort -- they have a computer in
20 their store or whatever, and they access
21 some sort of portal to enter their order?
22 How does that work?
23 A. Yeah. They -- they have to
24 get approved by the DEA. They have to

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1 complete a form, and then the DEA issues
2 them a certificate, and they receive a
3 paper authentication number and then one
4 via e-mail. And then they authenticate
5 that digital certificate. And then once
6 they receive the digital certificate,
7 it's embedded into a computer that they
8 use to access that certificate using what
9 they call the -- I think it's dual
10 credentials that they use.
11 And then once that digital
12 certificate is in the customer's
13 computer, they can use that to build an
14 order using our system, and then shoot it
15 out electronically.
16 Q. And then it's received on
17 the other end electronically as well?
18 A. Yeah, it goes through the
19 CRL. It's called the certificate
20 revocation list. It's a daily transfer
21 that we receive as the wholesaler to
22 verify that that digital certificate is
23 valid. And then once it passes that
24 test, it reaches our system. And then it

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1 goes through all of our checks, credit,
2 licensing, diversion, you know, order
3 monitoring program. And then if it
4 passes that, it goes right into pick,
5 pack, and ship.
6 Q. Okay. So is there like a
7 terminal inside the distribution center
8 where people see the order that comes in?
9 How does that work?

10 A. It's been a while. I don't
11 remember specifically how they look at
12 it. If it hits a hold, like a credit
13 hold or a -- you know, there's license
14 hold or there's a million different kinds
15 of holds that it can go into it, it will
16 hit a screen that the associate has to
17 look at and determine why it's not going
18 through.

19 So it might be kicked back
20 to the customer if it -- if it fails one
21 of the tests. If it doesn't fail a test,
22 it goes right into the PKMS system where
23 it's picked, packed, and shipped.

24 Q. So there's someone whose job

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1 it is to sit at a computer terminal and
2 monitor the orders that are getting
3 flagged for various failures?

4 MR. NICHOLAS: Object to the
5 form.

6 THE WITNESS: Yeah. It's --
7 I think in most cases it's the
8 processing manager of the
9 distribution center. He kind of
10 runs brains of the distribution
11 center.

12 BY MR. PIFKO:

13 Q. So did you say the data
14 processing manager? Is that what you
15 said?

16 A. DP manager. Data
17 processing.

18 Q. Okay. And so one of the
19 things could be like the license is
20 expired in the system, so it's rejecting
21 the order, or there's an issue like you
22 said with the credit, maybe the payment
23 is not going to process so that gets
24 rejected.

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1 You also mentioned the order
2 monitoring program. If it exceeds the
3 parameters of the order monitoring
4 program, that's another reason?

5 MR. NICHOLAS: Object to the
6 form.

7 BY MR. PIFKO:

8 Q. Is that correct?

9 A. Absolutely. It's one of
10 the -- it's one of the filters that it
11 has to go through in order to go through
12 the system. It has to hit that -- hit
13 that parameter.

[REDACTED]

Page 229

[REDACTED]

Page 230

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 Q. When you were a regional
13 manager -- director, I guess -- well, you
14 had all those different kinds of titles,
15 right?
16 A. Yes.
17 Q. That responsible person in
18 charge, is that someone who you would --
19 I understand they didn't report to you,
20 but is that someone who you would have
21 input into whether they were performing
22 their functions with respect to the order
23 monitoring program?
24 MR. NICHOLAS: Object to the

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1 form.
2 THE WITNESS: We would look
3 at, you know, what they were doing
4 during our audits. The compliance
5 manager who reported up to the
6 regional director had
7 responsibility of all the RPICs
8 within that distribution center.
9 So -- so there would be sort
10 of an extended responsibility from
11 the director if it was the
12 directors distribution center that
13 he or she was auditing.
14 BY MR. PIFKO:
15 Q. And that compliance manager,
16 that's someone that you would interact
17 with in the audit process, correct?
18 A. Yes.
19 Q. Okay. And would you ask
20 them questions about their compliance
21 with overseeing the responsible people in
22 charge as part of your audit?
23 A. If we had reason to ask them
24 as part of the audit. I mean, we -- we

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1 performed a very detailed audit during
2 these -- during these periods. So we
3 would -- we would cover the questions as
4 it was indicated on the audit checklist.
5 And depending on -- they
6 would -- generally part of that process
7 would be for the compliance manager to
8 explain how they manage their RPICs for
9 their distribution center. And if there
10 were questions, we would ask them at that
11 time. But we would -- we would ask
12 detailed questions about how it was being
13 managed when we did the audits.
14 Q. About how many RPICs would a
15 particular distribution center have at
16 any one time?
17 A. It would depend on the
18 distribution center. Anywhere from three
19 or four to maybe ten depending on the
20 size of the distribution center and how
21 busy they were. We have some
22 distribution centers that are very small
23 and they service a very small area. Some
24 are big. So it would depend.

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1 Q. How does the Lockbourne
2 facility fare in the size, comparative
3 size that you were just describing?
4 A. Larger.
5 Q. Okay. That's a place that
6 would have more like ten RPICs?
7 A. That's just a -- just a
8 general --
9 Q. Estimate?
10 A. -- idea. Probably, yeah. I
11 mean, average for larger divisions,
12 probably maybe between six and eight.
13 But it's hard to say. They vary from DC
14 to DC, but yes.
15 Q. Okay. Is there -- as part
16 of your audit keeping, are you familiar
17 with records that would describe who was
18 holding those roles at any particular
19 time?
20 A. Yes. I believe there was a
21 list of the RPICs at the distribution
22 center.
23 Q. Okay. Do you know what the
24 name of that list was called?

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1 A. No. I don't remember what
2 it was called.
3 Q. Would that be kept in some
4 central file at the distribution center?
5 A. Yes. It would. I think we
6 used the training documents as the list
7 as who was trained and who was performing
8 that function.
9 Q. What do you mean by that?
10 There was a training?
11 A. Yeah. The RPICs were
12 required to undergo training, so we
13 would -- you know, I think it was an
14 annual training requirement that they all
15 had to go through. So we would use that
16 as the document.
17 Q. So when you are conducting
18 the audit, you look at the records of who
19 was trained and when?
20 A. That was one of several
21 things that we looked at, yes.
22 Q. Was there a way to tell if
23 someone was an RPIC but they weren't
24 being trained?

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1 A. Yes. That's one of the
2 things that we audited for.
3 Q. Okay. And there was
4 documentation of who those people were
5 and their training history? That would
6 be kept at the distribution center?
7 A. Yes.
8 Q. Is there like -- were these
9 on paper files or electronic files?
10 A. We used paper files. When
11 training is conducted at the distribution
12 center, they would have to sign that they
13 were trained, and they show the date of
14 the training and the details of the
15 training. So we would use that as the
16 basis.
17 Q. In your experience as an
18 auditor, were the training files, or --
19 and general compliance files that you
20 would be looking at, were they all kept
21 in a central location, like go to this
22 room and that's generally where the
23 compliance files are kept?
24 MR. NICHOLAS: Object to the

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1 form.
2 THE WITNESS: They vary from
3 DC to DC, how they maintain their
4 files. But when we audited them,
5 they would bring all the files to
6 us.
7 BY MR. PIFKO:
8 Q. Okay. And you were just --
9 they knew the types of files that you
10 wanted when you came because you had done
11 these audits before?
12 A. Yeah, there's a document
13 that indicates -- that we would give them
14 at the onset of the audit that would
15 indicate everything that we needed.
16 Q. Okay. So to your knowledge,
17 what -- as an auditor, what was the
18 period for how long back they kept those
19 records?
20 A. It would depend on the
21 document and the record. We had a
22 record -- what do we call it? A
23 retention policy. And it would depend.
24 You know, different records had different

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1 retention policies.
2 Q. Okay. Was that -- the
3 retention policy, is that part of the
4 audit checklist?
5 A. No. That's laid out by the
6 legal department, I believe.
7 Q. Okay. But it's a document
8 that, like Form 222 should be kept this
9 long, training documents should be kept
10 this long, is that -- that's kind of what
11 it would look like?
12 A. Yeah, it would -- that would
13 be identified in the audit checklist, how
14 far back they are required to have those
15 documents and we would verify that.
16 Q. Okay. And then when you
17 filled out these audit reports, would you
18 save them to some centralized drive?
19 A. Yes. They would be kept
20 electronically.
21 Q. On the S drive?
22 A. I don't recall putting them
23 on the S drive. I know that they were
24 filed in our -- in our -- in our system,

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1 which would be Law Track. And that's
 2 updated. So that server is maintained
 3 for -- for that use.
 4 Q. You mentioned that from time
 5 to time you go back and access or
 6 investigators go back and access
 7 historical records. Are those audit
 8 reports something that people access and
 9 you've accessed?
 10 A. Yes. That would be part of
 11 our due diligence documentation that
 12 would be readily retrievable and used
 13 from time to time as necessary.
 14 Q. Okay. And so this day you
 15 can still access them and use them?
 16 A. Yes.
 17 Q. So I know we've gone a
 18 little branch of the tree there. But I
 19 was asking you still about DEA agents
 20 that you interacted with. And we had
 21 talked about Mr. Mapes.
 22 So you mentioned that you
 23 interacted with him on licensing
 24 procedures and on the CSOS program. How

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1 about any other types of issues that you
 2 interacted with Mr. Mapes?
 3 A. As an agent?
 4 Q. Yes.
 5 A. When he was with DEA.
 6 Q. Yes.
 7 A. Other than just other
 8 miscellaneous requests for clarification
 9 of regulations. There was probably two
 10 or three instances with that that I can
 11 vaguely recall, but I don't remember
 12 specifics. But it would really pretty
 13 much -- that would pretty much cover
 14 the -- the instances that I interacted
 15 with Mike.
 16 Q. So requests for
 17 clarification or regulation, what was the
 18 protocol, how would that -- and the
 19 occasions that you remember kind of
 20 generally, how would that interaction
 21 with Mr. Mapes occur?
 22 MR. NICHOLAS: Object to the
 23 form.
 24 THE WITNESS: Well, I'm the

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1 principal CSOS coordinator for
 2 ABC, which means I'm the main --
 3 I'm the main liaison between the
 4 DEA and CSOS. So I worked with
 5 them a lot regarding CSOS
 6 regulations and drafting our
 7 policies regarding the CSOS
 8 program. So that was a lot of
 9 interaction.
 10 And beyond that would be the
 11 renewal process earlier on.
 12 Renewing the batch renewals. And
 13 above and beyond that would have
 14 been just -- he was a good contact
 15 for us so we would use him as a
 16 contact for a lot of regulatory
 17 clarification.
 18 BY MR. PIFKO:
 19 Q. So you just felt you had a
 20 good relationship with him, so if you had
 21 a question you would just pick up the
 22 phone and -- and call him or something,
 23 is that kind of what you're telling me?
 24 A. Exactly.

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1 Q. Okay. How about e-mails,
 2 did you e-mail with him when you had
 3 questions?
 4 A. No. The DEA don't like
 5 e-mails too much. They -- they have a
 6 firewall. So we would get -- once in a
 7 while they would respond via written
 8 form, but usually we would get verbal
 9 clarification on regulations.
 10 Q. Okay. So you have -- the
 11 nature of your relationship with
 12 Mr. Mapes was such that you could just
 13 pick up the phone and -- if you had a
 14 question and talk to him and get an
 15 answer?
 16 A. Yeah, he knew who I was so
 17 he would take my call.
 18 Q. Okay. And then did you take
 19 notes of these calls ever?
 20 A. God, I don't recall.
 21 Q. Okay.
 22 A. With clarification of
 23 regulation, we would -- we would use
 24 his -- his -- his input certainly within

<p style="text-align: right;">Page 242</p> <p>1 the documentation that we were 2 completing, yeah. 3 Q. That's what I was going. So 4 if you're working on some sort of 5 regulatory question that you had, and you 6 called him up, would you write down, 7 okay, I talked to him and he said this, 8 and put that in a file somewhere, so that 9 everybody else could see? 10 A. I don't recall specifics 11 when I interacted with Mike. But yes, 12 generally with CSOS regulations, we would 13 use his input as the basis of our -- of 14 our policy. 15 Q. Okay. So you would be 16 working on some sort of policy and then 17 maybe you would write something in there 18 on the basis of the conversation that you 19 had? 20 MR. NICHOLAS: Object to the 21 form. 22 THE WITNESS: Yeah. We 23 would document that he -- that he 24 clarified, you know, specific</p>	<p style="text-align: right;">Page 244</p> <p>1 many years since I've interacted 2 with him. It's hard for me to 3 really state specifically how we, 4 you know, maintained the 5 information received from Mike. I 6 don't recall. It would be -- it 7 would vary depending on what we 8 were asking him. Sometimes it was 9 a very minor issue, sometimes it 10 was a more important issue. 11 BY MR. PIFKO: 12 Q. Okay. And then would you 13 save, like if you sent him a letter, 14 would that get saved on the S drive or 15 something like that? 16 A. Yes. Any written 17 correspondence to the DEA would generally 18 be kept in a -- in a form, in a 19 retrievable, you know, format. 20 Q. If you took notes on a 21 discussion with him and put it into some 22 sort of memo or, you know, something like 23 that, would that be saved on the S drive? 24 A. It would depend. Maybe not</p>
<p style="text-align: right;">Page 243</p> <p>1 regulation and what it meant and 2 how we were to interpret that. So 3 that's -- that's usually the way 4 we used his input. 5 BY MR. PIFKO: 6 Q. Okay. And is there like a 7 format for a document where you would put 8 that kind of information in? 9 A. I'm trying to remember my 10 interaction with him. I don't think 11 there was any specific format. I think 12 we just clarified, you know, within our 13 correspondence that he clarified, you 14 know, this is the interpretation that we 15 should use. 16 Q. Okay. So maybe you'd sent 17 him a follow-up letter after the call, is 18 that what you're saying? 19 I'm just trying to 20 understand, I'm trying to visualize what 21 you would do. 22 MR. NICHOLAS: Object to the 23 form. 24 THE WITNESS: It's been so</p>	<p style="text-align: right;">Page 245</p> <p>1 always. 2 Q. Okay. Depending on the 3 significance of maybe the discussion, is 4 that what you're getting at with me? 5 MR. NICHOLAS: Object to the 6 form. 7 THE WITNESS: Yeah. It 8 would depend on what we were 9 calling him about. 10 BY MR. PIFKO: 11 Q. Okay. 12 A. I mean I had multiple 13 discussions with Mike over years. So it 14 would just -- it would cover the gamut. 15 BY MR. PIFKO: 16 Q. Right. But if it was a more 17 significant issue, you would be more 18 likely to write that down than if it was 19 a minor thing, you know, you would just 20 leave that be without documenting it, is 21 that what you're telling me? 22 A. I can speak for myself. 23 Yes, I would -- I would be likely -- it 24 would be likely that I would maintain it</p>

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1 in a written form.
2 Q. Okay. If it was a more
3 significant issue?
4 A. Yes.
5 Q. Okay. You are aware that at
6 some point, we already talked about it,
7 Mr. Mapes became a consultant for the
8 company, correct?
9 A. Yes, he did.
10 Q. Are you familiar with how he
11 came to be a consultant?
12 A. I don't recall. And that
13 was -- that happened over my head.
14 Q. So that's -- that was going
15 to be my question, if you were involved
16 in the discussions at all.
17 A. Not that I recall.
18 Q. Okay. You testified that
19 you felt like you had a close
20 relationship with him, correct?
21 A. Yeah. We worked closely.
22 Q. Okay. Were there other
23 people at the company who had a close
24 relationship with Mr. Mapes?

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1 MR. NICHOLAS: Object to the
2 form.
3 THE WITNESS: Yeah, he
4 worked with us on all the team
5 members pretty closely.
6 BY MR. PIFKO:
7 Q. Mr. Mays, did he have a
8 close relationship with him too?
9 MR. NICHOLAS: Object to the
10 form.
11 THE WITNESS: I can't really
12 speak to how David Mays'
13 relationship, what it was with
14 Mike. I think -- I know he worked
15 with him.
16 BY MR. PIFKO:
17 Q. Okay. How about
18 Mr. Zimmerman?
19 MR. NICHOLAS: Same
20 objection.
21 THE WITNESS: Same answer.
22 I can't really speak to how he,
23 you know, worked with Mike.
24 BY MR. PIFKO:

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1 Q. Were you close with
2 Mr. Zimmerman?
3 A. Well, I've worked with him
4 for the -- the entire time that I've been
5 with the company, so I know Chris well.
6 Q. Okay. And you moved -- you
7 both shared moving from California to
8 here, correct?
9 A. That's correct.
10 Q. Okay. Do you interact with
11 Mr. Zimmerman outside of work?
12 MR. NICHOLAS: Objection.
13 But go ahead.
14 THE WITNESS: On occasion.
15 BY MR. PIFKO:
16 Q. Okay. Not often though?
17 MR. NICHOLAS: Same
18 objection. Go ahead.
19 THE WITNESS: I would say
20 not often.
21 BY MR. PIFKO:
22 Q. Okay. How about Kyle
23 Wright, another DEA agent. Have you
24 heard of him?

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1 A. The name rings a bell, but I
2 cannot put his name to a face.
3 Q. Okay. Do you feel like
4 you've heard the name before though?
5 MR. NICHOLAS: Object to the
6 form.
7 THE WITNESS: Yeah, vaguely.
8 BY MR. PIFKO:
9 Q. Okay. We talked about --
10 you mentioned that in 2005, you took on
11 some role as performing investigations
12 for the company, correct?
13 A. That's correct.
14 Q. Okay. Do you remember how
15 you came to -- you said that that was an
16 additional responsibility that you took
17 on. Do you remember saying that?
18 A. Yes, I do.
19 Q. Okay. Do you remember how
20 you came on to take on that additional
21 responsibility?
22 A. It was so long ago. It was
23 13 years ago. I know it was assigned to
24 me as a collateral duty in addition to my

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1 audit responsibilities and my
2 responsibilities for my region. But I
3 don't remember how it actually came to
4 me.
5 Q. Are you aware that Mr. Mays
6 had a meeting with Mr. Mapes and Kyle
7 Wright in August of 2005?
8 A. No.
9 Q. Mr. Mays traveled to D.C. to
10 meet with them to discuss internet
11 pharmacies. Do you remember hearing
12 about that meeting?
13 A. I don't recall that.
14 Q. Okay. Do you recall
15 Mr. Mays coming to you and -- and saying
16 the -- the DEA was interested in
17 increasing the level of due diligence
18 that distributors should be conducting on
19 their customers as a result of internet
20 pharmacy concerns?
21 A. No, I don't recall that.
22 Q. Mr. Mays received a
23 presentation from the DEA at that time
24 concerning due diligence and regulatory

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1 requirements and internet pharmacies. Do
2 you know if he shared that with you at
3 that time in 2005?
4 MR. NICHOLAS: Object to the
5 form.
6 THE WITNESS: If he did, I
7 don't remember it.
8 BY MR. PIFKO:
9 Q. Okay. You said that from
10 time to time you had in-person meetings
11 with members of your team, the other
12 regional directors and managers?
13 A. Yes.
14 Q. How frequently did you meet?
15 A. We would have annual
16 meetings. I don't remember when they
17 started. But I know we did that for a
18 long period of time.
19 Q. And those were in person?
20 A. Yeah. They would all come
21 to Chesterbrook.
22 Q. Okay. And then how many
23 people would attend those meetings?
24 MR. NICHOLAS: Object to the

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1 form. Go ahead.
2 THE WITNESS: It would just
3 be the lead team, regional
4 directors, our senior director,
5 and Chris would be involved in
6 those meetings.
7 BY MR. PIFKO:
8 Q. So you said at any
9 particular time there would be four to
10 five regional directors?
11 A. Yes.
12 Q. Okay. So -- and then your
13 boss, and then Mr. Zimmerman might attend
14 as well?
15 A. Yes.
16 Q. So maybe seven or eight
17 people?
18 A. Yeah. It seemed like --
19 yeah, it would mainly be the regional
20 directors, Steve, Chris, and I think the
21 investigations team would sometimes sit
22 in on those meetings. But generally
23 speaking, yeah, that would be the core
24 group that would meet.

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1 Q. The investigations team,
2 that's Bruce Gundy's team?
3 A. Yes.
4 Q. And how many people were on
5 that team?
6 A. It varied over the years. I
7 don't recall exactly. We had
8 investigators that worked for him for a
9 number of years. I don't remember the
10 number.
11 Q. So in addition to these
12 in-person meetings, did you have
13 telephone conversations regularly with
14 the team?
15 A. Yes. We would -- we would
16 communicate regularly with each other.
17 Q. Just informally or did you
18 have like a formal weekly or monthly
19 telephone call?
20 A. I think we had a formal team
21 call. It might have been weekly. It
22 might have been biweekly. It might have
23 been monthly. I think it changed over a
24 period of years. So that's really --

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1 have a formal meeting, and then we would
2 talk to each other, you know, on an
3 informal basis as well.
4 Q. So did you guys e-mail with
5 each other as well?
6 A. Yes.
7 Q. Very often?
8 MR. NICHOLAS: Object to the
9 form.
10 THE WITNESS: Pretty
11 regularly.
12 BY MR. PIFKO:
13 Q. If there was a new thing
14 that was being rolled out, would you guys
15 discuss that over e-mail?
16 MR. NICHOLAS: Object to the
17 form.
18 THE WITNESS: It would
19 depend. But we communicated
20 regularly.
21 BY MR. PIFKO:
22 Q. Okay. So you don't recall
23 Mr. Mays ever coming back and telling any
24 members of the team -- I know you said

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1 you specifically, but my question is, do
2 you recall whether Mr. Mays had a meeting
3 with the team at any point saying the DEA
4 is concerned about suspicious order
5 requirements and internet pharmacies and,
6 you know, they want us to take on some
7 additional due diligence efforts?
8 MR. NICHOLAS: Object to the
9 form.
10 THE WITNESS: It's been so
11 many years. I just don't recall.
12 BY MR. PIFKO:
13 Q. Okay. Who were some of the
14 other counterparts that you interacted
15 with who held these positions, regional
16 director positions?
17 A. The names?
18 Q. Yeah.
19 A. I think I named them before.
20 There was Greg Madsen, Erica Burwell,
21 Cathy Marcum. There was a guy named John
22 Gibson, who has since left the company.
23 More recently Tony Droz is one of the
24 newer directors that I worked with a lot.

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1 So when we would audit
2 their -- excuse me. When we would audit
3 their distribution centers, obviously we
4 would work with them closely on the
5 results.
6 Q. You held your role for
7 13 years. Did the other people in the
8 other regions have a long tenure in their
9 positions as well?
10 A. Yeah, for the most part.
11 Yeah. Everybody with AmerisourceBergen
12 generally stays for a long time. There's
13 very little attrition with our company.
14 Q. When we talk about
15 interacting with people over the e-mail
16 and telephone and these annual in-person
17 meetings, it's -- the people involved
18 were the names that you just listed for
19 the most part?
20 MR. NICHOLAS: Object to the
21 form.
22 THE WITNESS: For the most
23 part. There were other people
24 that came and left. But those

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1 were the main people that were
2 there the long-term.
3 BY MR. PIFKO:
4 Q. Okay. I'm going to hand you
5 a document.
6 So you recall also that you
7 said that one of your jobs was to --
8 after the Amerisource and Bergen
9 corporation merger, was to get the
10 licensing and regulatory filings of all
11 the distribution centers in order; is
12 that correct?
13 MR. NICHOLAS: Object to the
14 form.
15 Go ahead.
16 THE WITNESS: Yeah.
17 BY MR. PIFKO:
18 Q. Okay.
19 A. Yeah, the licensing portion
20 of my responsibility which ended shortly
21 thereafter. But yes.
22 Q. Okay. And as part of that
23 effort you had to look into the files of
24 the other distribution centers to get

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1 everything together?
2 A. Yeah, we maintained all the
3 licensing in electronic format for all
4 the distribution centers.
5 Q. And that was something that
6 you reviewed as part of that effort?
7 A. Well, I renewed them.
8 Q. Right, but in order to
9 perform the renewal, you had to look
10 at --
11 MR. NICHOLAS: I think he
12 thought -- I thought -- I think he
13 thought you said renewed. And it
14 was renewed/reviewed thing.
15 BY MR. PIFKO:
16 Q. Okay. Okay. So all I was
17 asking is if you reviewed the records
18 when you were renewing the licenses.
19 A. Well, we had the licenses.
20 There wasn't much to review. We just --
21 we knew that they expired, generally
22 speaking, once a year. So we would have
23 to renew those -- those licenses, you
24 know, periodically. So that was a lot of

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1 work involved in that.
2 Q. Okay. What's the -- what
3 was the nature of the work that goes --
4 involved -- into a renewal of a license?
5 A. Mainly filling out the
6 application. Those applications would
7 have various questions on them. We would
8 have to fill them out one at a time. You
9 know, the states have their own renewal
10 application. The DEA switched over to
11 batch renewal, so that was a lot easier.
12 Just -- just really
13 completing the application and cutting
14 the checks.
15 Q. Batch renewal, that's the
16 way that a company that is that has
17 multiple licenses can renew them all in
18 one -- in one setting?
19 A. Exactly.
20 Q. So you use one application,
21 maybe it has discussions about the
22 various registrations, but a centralized
23 way of submitting it?
24 A. Yeah, instead of having 26

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1 separate checks, we had one big check and
2 one big application, yes.
3 Q. Okay. What kind of -- do
4 you remember the kinds of information
5 that are called for on the application?
6 A. The DEA batch renewal was
7 pretty straightforward. There was only
8 about five questions on there. The state
9 applications would vary from state to
10 state. They were -- they spanned from
11 little to big. So -- and again, that was
12 so long ago. You know, the questions
13 varied.
14 Q. When you're renewing a
15 license, is there any discussion of
16 compliance activities that occurred at
17 the facility as far as whether the
18 license should be renewed?
19 MR. NICHOLAS: Object to the
20 form.
21 THE WITNESS: Yeah, I think
22 some -- some applications ask
23 questions about previous
24 discipline.

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1 BY MR. PIFKO:
2 Q. Okay. Do you remember
3 looking into that when you were in charge
4 of renewing the licenses?
5 A. Yeah. That was one of
6 the -- one of the things that we -- that
7 we reviewed as part of completing it,
8 yeah.
9 (Document marked for
10 identification as Exhibit
11 AmerisourceBergen-Cherveny-1.)
12 BY MR. PIFKO:
13 Q. So I'm handing you what's
14 marked as Exhibit 1. For the record,
15 it's a few-page document, Bates-labeled
16 ABDCMDL00146183 through 146186. And it's
17 an e-mail attaching a memorandum of
18 understanding from April 20th, 2000. And
19 the e-mail is dated December 11, 2013,
20 from the witness to Bruce Gundy. It
21 talks about a Columbus MOU.
22 Take a minute to review
23 that, and let me know when you're -- when
24 you're done.

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1 A. Okay.
2 Q. Do you remember discussing
3 this MOU with Mr. Gundy?
4 A. No, I do not.
5 Q. Okay. Do you have any
6 reason to dispute that you had the
7 discussion with Mr. Gundy about this MOU?
8 MR. NICHOLAS: Object to the
9 form.
10 THE WITNESS: No. The
11 document indicates that I
12 forwarded this document to him.
13 So I wouldn't dispute that.
14 BY MR. PIFKO:
15 Q. Okay. Do you remember
16 looking into what this MOU was about?
17 A. No.
18 Q. The title of the document as
19 referenced in the first page,
20 ABDCMDL146183 it has the attachment, the
21 subject is "Columbus MOU."
22 Do you see that?
23 A. Yes, I do.
24 Q. Do you have an understanding

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1 about whether this was specific to a
2 facility in Columbus?
3 A. Yes. It looks like it was
4 an -- it was an MOU for our Columbus
5 distribution center.
6 Q. Okay. It's got here --
7 going to MDL -- ABDCMDL00146184, it tells
8 -- it says, "The notice of hearing allege
9 that prohibited acts occurred in
10 violation of the Comprehensive Drug
11 Enforcement Administration Abuse
12 Prevention and Control Act of 1970 and
13 the regulations promulgated thereunder,
14 namely that the respondent, Amerisource
15 Corporation has" -- and then it's got
16 four issues here.
17 Do you see that?
18 A. Yes.
19 Q. Okay. And one of them is,
20 "Failed to provide effective controls and
21 procedures to guard against the theft and
22 diversion of controlled substances
23 required by 21 C.F.R. 1301.71(a)."
24 Do you see that?

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1 A. Yes, I do.
2 Q. Do you have an understanding
3 about what that alleged prohibited act
4 was about?
5 A. With regard to this
6 particular MOU?
7 Q. Yes.
8 A. It happened in 2000. It's
9 just so long ago. I don't recall this
10 particular occurrence.
11 Q. Okay. Item 4 here says,
12 "Failed to adequately supervise employees
13 having access to storage areas resulting
14 in a breach of confidentiality concerning
15 criminal investigation required by 21
16 C.F.R. 1301.71(b)11."
17 Do you see that?
18 A. Wait, which -- which
19 section, which --
20 Q. 4.
21 A. Number 4. Yes, I see that.
22 Q. Okay. Do you have an
23 understanding about that -- what that
24 alleged prohibited act was about?

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1 A. No. April 2000. That was a
2 long time ago. I don't recall this.
3 Q. You, as part of your job,
4 we've talked, you've had some
5 responsibilities for discharging the
6 company's compliance with certain
7 controlled substances laws, correct?
8 A. Yes.
9 Q. Okay. Do you have a
10 familiarity with what 21 C.F.R. 1301.71
11 (b)11 is?
12 MR. NICHOLAS: Object to the
13 form.
14 THE WITNESS: Reference to
15 Item 4?
16 BY MR. PIFKO:
17 Q. Yeah. That citation, is
18 that --
19 A. No, I --
20 Q. -- something that you're
21 familiar with?
22 A. Unless I had it in front of
23 me, I wouldn't -- I wouldn't want to
24 speculate what that regulation states

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1 exactly.
2 Q. Okay. How about 1301.71(a),
3 do you know what that's about?
4 MR. NICHOLAS: Same
5 objection.
6 THE WITNESS: I would want
7 to see the regulations before I
8 comment on it.
9 BY MR. PIFKO:
10 Q. As part of your working to
11 put all the facilities together and
12 applying for the licenses, do you recall
13 uncovering this when you were doing the
14 transition?
15 MR. NICHOLAS: Objection.
16 Object to the form.
17 THE WITNESS: No.
18 BY MR. PIFKO:
19 Q. No?
20 Do you know if any money was
21 paid in connection with this?
22 A. It states anything here --
23 no, I don't know.
24 Q. It says here at the 146185,

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1 "The respondents having been fully
2 advised of the prohibited acts which have
3 occurred have agreed to comply with the
4 provisions of the comprehensive Drug
5 Enforcement Administration Abuse,
6 Prevention and Control Act of 1970 and
7 the regulations issued thereunder
8 hereafter set forth." And then it's got
9 four items.
10 Do you see that?
11 A. Yes.
12 Q. Okay. It says, "Respondent
13 will provide effective controls and
14 procedures to guard against theft and
15 diversion of controlled substances
16 required by 21 C.F.R. 1301.71(a)."
17 Do you see that?
18 A. Yes.
19 Q. Do you have any
20 understanding about what steps were taken
21 to comply with that?
22 A. No. Having been so long
23 ago, you know, 18 years ago, I don't
24 recall this at all. So I don't know what

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1 steps were taken.
2 Q. Do you recall anything
3 unique to the Columbus facility as far as
4 how they were performing their duties or
5 procedures when you first came into the
6 role as regional director?
7 A. No.
8 Q. It's got some names here of
9 people who, quote, appear -- "appearing
10 on behalf of the respondent." Do you see
11 that at the top of the page?
12 A. Yes.
13 Q. Okay. Do you know who
14 Rodney Bias is?
15 A. Yes, I knew Rodney.
16 Q. Okay. What was his role?
17 A. He was, I believe, director
18 of regulatory compliance for Amerisource
19 at the time of the merger.
20 Q. And do you know what
21 happened to him after -- after the
22 merger?
23 A. He subsequently left the
24 company. I don't remember when exactly.

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1 Q. Did you interact with him
2 regularly, or he wasn't someone that you
3 worked with?
4 A. No, I worked with him pretty
5 regularly when he was with the company.
6 Q. Okay. Do you have an
7 estimate about when he left the company?
8 A. No.
9 Q. How about Brent Wilhelm of
10 the Columbus operations manager. Do you
11 know who that is?
12 A. Yeah, vaguely. It was a
13 long time ago.
14 Q. Was that someone that you
15 interacted with?
16 A. Not as much as Rodney.
17 Rodney was a member of the corporate
18 regulatory team. And Brent was an
19 operations manager of the DC, so I would
20 have a lot less interaction with him.
21 Q. Any of these people, John
22 Briney, Frieda Hein, did you interact
23 with any of them?
24 A. Yeah, Frieda was the

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1 compliance office, she was the compliance
2 manager, I worked with her.
3 Q. Okay.
4 A. I don't remember John
5 Briney.
6 Q. Frieda, how long did you --
7 over your tenure do you recall working
8 with her?
9 A. Several years. I don't
10 remember specific dates.
11 Q. At some point she left the
12 company?
13 A. I believe so, yeah.
14 Q. Have you talked to Rodney or
15 Frieda in -- at any time in the last few
16 years?
17 A. No.
18 Q. It's got some people who are
19 identified as appearing on behalf of the
20 DEA below that. Do you see that?
21 A. Yes.
22 Q. Do you know who any of those
23 people are?
24 A. I remember Helen Kaupang.

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1 She was the group supervisor of the
2 Columbus office I believe, so I did work
3 with her.
4 Q. Okay. You worked with her
5 somewhat regularly?
6 A. She was the group supervisor
7 for the -- for the DEA that held
8 jurisdiction for our distribution center.
9 So I worked with her several times
10 throughout my tenure while I had that
11 distribution center.
12 Q. She was in that position as
13 long as you could remember while you
14 were -- you had your role?
15 A. Yeah, I don't remember what
16 years. But I remember -- I remember the
17 name and I remember working with her.
18 Q. When you say group
19 supervisor, that's what it says here on
20 the page, what -- what does that -- what
21 is your understanding of what that
22 entailed?
23 A. The group supervisors are in
24 charge of the -- of the field office, and

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1 they report up to a program manager. So
2 they would be sort of the equivalent of
3 a -- of a -- like our distribution
4 center. And then, you know, the program
5 manager would be equivalent to like a
6 regional director. So within DEA, that's
7 the way I would -- I would explain their
8 roles. So she was in charge of that DEA
9 office that had that jurisdiction over --
10 over that geographic area.
11 Q. You talked about your
12 closeness with Mr. Mapes. Did you feel
13 that you had a closeness with her?
14 MR. NICHOLAS: Object to the
15 form.
16 THE WITNESS: No, not as
17 much.
18 BY MR. PIFKO:
19 Q. Okay. Did you ever pick up
20 the phone and ask her compliance
21 questions?
22 A. Not that I recall.
23 Q. Do you recall if you ever
24 sent her any letters or e-mails asking

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1 her compliance questions?
2 A. No. She was a -- she was a
3 group supervisor and Mike was at
4 headquarters. So Mike would have been a
5 more appropriate person because he was --
6 he was in charge of the programs. So I
7 did not have as much interaction with her
8 as I had with Mike.
9 Q. So you knew that if you
10 wanted guidance from the DEA, it would be
11 more appropriate to ask someone at
12 headquarters than someone at a regional
13 level?
14 A. Yeah. Their -- their
15 opinion would carry more weight from our
16 standpoint as a wholesaler.
17 Q. Let's go back to
18 the additional investigation
19 responsibility that you took on in 2005.
20 What -- I asked you if you remembered how
21 you kind of came to take that on. You
22 said you didn't really have a clear
23 direct remembrance of the meeting or
24 specific thing. But you just remember

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1 that you took it on, correct?
2 A. That's correct.
3 Q. Okay. So, what specifically
4 were these additional investigation
5 responsibilities that you took on at that
6 time?
7 A. So the report that I
8 reviewed that generated periodically was
9 called the possible suspicious order
10 report. So that report was generated
11 based on pre-set parameters, and it would
12 come to my office. I would separate it
13 by customer, and I would conduct separate
14 investigations pursuant to that report,
15 to those customers.
16 Q. Do you know how that report
17 was generated?
18 A. I don't recall. I don't
19 recall the parameters and I don't recall
20 how it was generated. I just know that
21 it was generated and it came to my
22 office.
23 Q. Do you know if that was a
24 report that was generated prior to you

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1 having the involvement with it and then
2 you were just a new person that was
3 reviewing it and it had been produced
4 before and others had reviewed it?
5 MR. NICHOLAS: Object to the
6 form.
7 THE WITNESS: I honestly
8 don't recall. It was so long ago.
9 BY MR. PIFKO:
10 Q. Do you -- that was kind of a
11 longwinded question. Do you understand
12 my question?
13 Did you understand -- I
14 think -- I think I know what you're going
15 to say but I'll just ask it for clarity.
16 Do you understand that that
17 report existed before you became involved
18 with interacting with that report?
19 A. I can't confirm knowledge
20 that that report existed prior to my
21 taking on that investigative
22 responsibility.
23 Q. How frequently would this
24 report get sent to you?

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1 A. I know it was periodic. I
2 don't remember the frequency.
3 Q. Who told you that your new
4 responsibility was to look at this
5 report?
6 A. I believe it was Steve Mays.
7 Q. And you know it was in 2005?
8 A. I believe it was within that
9 two-year period, from 2005 to 2007. But
10 again that was a long time ago. That's
11 just my recollection.
12 Q. How would this report come
13 to you, by -- by e-mail?
14 A. No, it would come in
15 hardcopy.
16 Q. Okay. Through like
17 interoffice mail?
18 A. Yeah, I don't know where it
19 was generated from. But I know that it
20 was -- it would end up on my desk at the
21 predesignated time, you know, at the
22 frequency that it was established for.
23 Q. Okay. So if it was like
24 every week on a Friday when that would

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1 come, or once a month, whatever, it came
2 with that regularity and someone would
3 deliver it to you?
4 MR. NICHOLAS: Object to the
5 form.
6 Go ahead.
7 THE WITNESS: Yes.
8 BY MR. PIFKO:
9 Q. Okay. And then it was your
10 job to look at the -- I'm sorry if I
11 didn't -- if I didn't hear you, the
12 orders or the customers that were on this
13 list?
14 A. It was -- it was orders and
15 it was broken down by customers.
16 Q. Okay. So it was your job to
17 look at all the orders on this list?
18 A. Yes.
19 Q. And how did you know, did
20 someone train you about what you were
21 supposed to look for when you were
22 looking at this?
23 A. I don't remember
24 specifically how I was instructed to --

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1 to review the report. I don't remember
2 how I was instructed.
3 Q. Do you know who would have
4 given you the instructions?
5 A. I believe Steve would have
6 done that.
7 Q. Okay. And so tell me what
8 your recollection of what you were
9 supposed to look at on this report was.
10 A. So the report contained
11 sales data for customers. And I believe
12 it was Oxycodone and hydrocodone
13 products. If they breached a parameter,
14 it would trigger this report to be
15 generated. So I got the report
16 periodically and it may have been, you
17 know, I don't remember how much it was,
18 but I would separate it by customer,
19 because it would be, I believe
20 alphabetical or it might have been by DEA
21 number. But it would basically be, you
22 know, one customer, then another
23 customer, and it would just be -- it
24 would span multiple customers in

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1 grouping. So I would group them in
2 separate -- in separate files and then I
3 would conduct the investigation of those
4 customers.
5 Q. Okay. And then what -- what
6 things would you do to conduct the
7 investigation of those customers?
8 A. I had a couple support staff
9 within the CSRA department that I used to
10 assist me with this, that I would work
11 with those individuals to contact the
12 sales executive, to contact the customer
13 to inquire as to why they were buying,
14 you know, that quantity of controlled
15 substances. We would collect all the
16 information on the customer. We would
17 take their responses to our questions and
18 our follow-up questions, and we would
19 complete an investigation of each
20 customer.
21 Q. Would there be some sort of
22 document that you would create at the
23 culmination of your investigation?
24 A. Yeah. It would be an

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1 investigation report.
2 Q. Okay. And then would you
3 save that somewhere?
4 A. Yeah. I believe it was
5 maintained in Law Track.
6 Q. And then was there a goal of
7 the investigation that you were trying to
8 determine something?
9 MR. NICHOLAS: Object to the
10 form.
11 THE WITNESS: We were trying
12 to determine if any improprieties
13 were happening with regard to
14 those orders. I would -- I would
15 collect all the information that
16 I -- that I could from the
17 customer to explain, you know, the
18 reasoning as to why they were
19 buying that quantity of controls,
20 and I would take the findings and
21 I would, you know, provide it to
22 Steve Mays. And what he did with
23 it, you know, I'm not sure.
24 Because at that point the

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1 decision -- the decisionmaking
2 regarding my investigation that I
3 completed was conducted, you know,
4 outside of my realm. So I'm not
5 sure what the -- what the -- what
6 the results of those -- those
7 investigations entailed.
8 BY MR. PIFKO:
9 Q. Did you make any
10 recommendations for actions in the
11 report?
12 A. You know, it's been so long
13 ago, I don't recall.
14 Q. Do you recall if one of the
15 things that you were evaluating was
16 whether to fill the order?
17 A. Well, keep in mind this was
18 a system that we operated that was
19 prior -- prior to the system that held
20 orders.
21 Q. Okay.
22 A. So this was investigations
23 that occurred after the shipment was
24 already completed.

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1 Q. Okay. So it's your
2 understanding that all these orders and
3 in the possible suspicious order report
4 had already been shipped; is that
5 correct?
6 A. Yes. Those were -- those
7 were orders that have already been
8 shipped. That's correct.
9 Q. Okay. And you would look at
10 it to evaluate whether there were
11 concerns, and you would generate a
12 report, but you didn't make any
13 recommendations for a course of action
14 going forward; is that correct?
15 A. That's correct.
16 Q. You provided that to Steve
17 Mays, the report?
18 A. Yes. I believe I give it
19 directly to Steve Mays.
20 Q. Did you send it by e-mail?
21 A. I don't recall. We may have
22 just put it in the Law Track system and
23 he retrieved it from there. I don't
24 recall how I gave it to him.

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1 Q. Do you recall about how long
2 it would take you to conduct an
3 investigation of a customer that was
4 identified in this report?
5 A. I don't recall.
6 Q. Is it like -- put me in your
7 shoes. I'm sitting -- I'm sitting at
8 your desk. Is it like a thing that takes
9 a week, and you're kind of doing it off
10 and on? Is it something that you sit
11 down and do in a few hours? Do you do it
12 all day? Can you explain to me how long
13 the process took in that regard?
14 MR. NICHOLAS: Object to the
15 form.
16 You can go ahead and answer.
17 Can we a break soon, Mark,
18 maybe after this question?
19 MR. PIFKO: Yeah.
20 MR. NICHOLAS: Okay. Go
21 ahead.
22 THE WITNESS: Yeah, the --
23 it would depend on how quickly we
24 got the information that we asked

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1 for. Sometimes we would contact
2 the customer, and it would take
3 them time to respond to us. So it
4 would depend on the investigation,
5 anywhere from, you know, best case
6 scenario, a couple days to maybe a
7 couple weeks, just off the top of
8 my head. But I -- it's been so
9 long I don't recall.
10 MR. PIFKO: Okay. Thank
11 you. We'll take a break.
12 THE VIDEOGRAPHER: Going off
13 the record. 2:32 p.m.
14 (Short break.)
15 THE VIDEOGRAPHER: Back on
16 record, 3:07 p.m.
17 BY MR. PIFKO:
18 Q. Welcome back.
19 A. Thank you.
20 Q. I want to talk about your
21 educational background and training for a
22 little bit. Okay?
23 A. Yeah.
24 Q. All right. So earlier we

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1 talked that you -- let me make sure I
2 have a clear understanding. You went to
3 high school, graduated high school. Then
4 you went to Golden West College for a
5 year, and then you decided to join the
6 Navy, and did that, and then you got a
7 job with Amerisource -- or with the
8 Bergen Corporation, correct?
9 A. Yes.
10 Q. How long were you in the
11 Navy?
12 A. Five years.
13 Q. And you had the same
14 controller job during the entire duration
15 of your service?
16 A. Yes.
17 Q. Okay. So when you got to
18 the Bergen Corporation, you started as a
19 security guard, you said, correct?
20 A. Security officer. Yes.
21 Q. Okay. And then when you
22 moved into the regional manager director
23 position, did you get any specific
24 training?

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1 A. Yes. I basically
2 accompanied other auditors on audits, and
3 those people that had been with the
4 company ran through the audit checklist
5 with me and all related duties that I
6 would have.
7 Q. So when you first took on
8 that role, your primary job was
9 conducting the audits?
10 A. Conducting the audits and
11 managing my region.
12 Q. Okay. What else -- what
13 else do you mean by managing your region?
14 A. Well, the compliance
15 managers would report up to me. So any
16 day-to-day occurrences that needed
17 attention, you know, I would have to
18 handle that. So that had a whole array
19 of areas that I had to -- had to respond
20 to.
21 Q. Okay. So how many -- how
22 many compliance managers would be at a
23 particular distribution center?
24 A. Only one.

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1 Q. So those people reported to
2 you. Anyone else who reported to you?
3 A. No.
4 Q. And then, sorry, I know we
5 had discussed it may be a bit, but how
6 many distribution centers would you have
7 under your wing at any one time?
8 A. Anywhere between five and
9 eight, I think --
10 Q. Okay.
11 A. -- depending on which time
12 period it was.
13 Q. So you had about five and
14 eight compliance managers who had to
15 report to you?
16 A. Correct.
17 Q. And so in addition to
18 conducting the audits, you had to deal
19 with any issues they raised to you, any
20 personnel issues, and things like that as
21 well?
22 A. Yes.
23 Q. Anything else that was part
24 of your job at that time?

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1 A. Nope, I think that was it.
2 Q. And then 2005, you added the
3 investigation slate to your plate, as we
4 discussed before the break, correct?
5 A. Correct.
6 Q. And then you conducted those
7 investigations for how long?
8 A. I believe it was from 2005
9 and 2007.
10 And I would like to make a
11 correction to my previous testimony.
12 Q. Okay. Is that based on a
13 discussion that you had during the break?
14 A. Just --
15 MR. NICHOLAS: Objection.
16 Objection. I don't think you're
17 allowed to ask about any
18 conversation --
19 MR. PIFKO: If he's going to
20 make a correction to his
21 testimony, I am.
22 MR. NICHOLAS: Where does it
23 say -- I mean, where does it say
24 that? Hold on. Let me just

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1 find -- let me just find the order
2 so we can be clear on --
3 MR. PIFKO: Well, he's
4 making a correction.
5 MR. NICHOLAS: What does
6 that have to do with this order?
7 BY MR. PIFKO:
8 Q. What's the basis of your
9 correction, sir.
10 MR. PIFKO: I don't need the
11 order.
12 MR. NICHOLAS: Wait a
13 minute.
14 Go ahead.
15 MR. PIFKO: No, if he's
16 going to make a correction, I'm
17 asking him a question.
18 THE WITNESS: The correction
19 was the report -- what the report
20 was called that I reviewed.
21 BY MR. PIFKO:
22 Q. Okay. And what was the
23 basis for wanting to make that
24 correction?

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1 A. Just to correct the record.
2 Q. No, but why did it come to
3 you that you needed to correct the
4 record? Did someone tell you at the
5 break that the report had a different
6 name?
7 MR. NICHOLAS: I'm going to
8 instruct him not to answer, based
9 on this order.
10 BY MR. PIFKO:
11 Q. Did AmerisourceBergen's
12 lawyer tell you that the report had a
13 different name during the break?
14 MR. NICHOLAS: I'll instruct
15 him not to answer based on this
16 order.
17 THE WITNESS: I'll take my
18 attorney's advice.
19 BY MR. PIFKO:
20 Q. Okay. The reason that you
21 want to change the name of the order, is
22 there a way that you can answer that
23 question without revealing conversations
24 with your lawyer?

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1 MR. NICHOLAS: I'm going to
2 instruct him not to answer based
3 on the order. The order is pretty
4 clear. You can't inquire about
5 any conversations during the
6 break. Period.
7 MR. PIFKO: I can, because
8 it's clear that a change was
9 required as a result of something
10 that occurred during the break.
11 MR. NICHOLAS: That's not --
12 that's not true that anything is
13 clear. I know what the order
14 says. You've not allowed to
15 inquire about a conversation --
16 about any conversations at all
17 during the break having to do with
18 attorney -- between the attorneys
19 and the witness. So just don't do
20 it. Just ask him your --
21 BY MR. PIFKO:
22 Q. How did you come to -- how
23 did you come to realize that you wanted
24 to make a change to the name to the

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1 report?
2 MR. NICHOLAS: You can
3 answer only to the extent that it
4 doesn't -- you know, you can't
5 talk about any conversations on
6 the break.
7 THE WITNESS: I just want to
8 make a correction to the name of
9 the report that I reviewed.
10 BY MR. PIFKO:
11 Q. I hear you, but that's not
12 my question.
13 My question is: How did you
14 come to decide that you wanted to make a
15 change to the name of the report?
16 MR. NICHOLAS: Same
17 instruction.
18 THE WITNESS: I'll follow my
19 attorney's advice and not answer
20 that.
21 BY MR. PIFKO:
22 Q. You can't answer that
23 question without talking about a
24 communication that you had with your

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1 lawyer?
2 MR. NICHOLAS: Same
3 objection.
4 THE WITNESS: Yes.
5 MR. PIFKO: Okay. Well,
6 obviously we'll deal with that.
7 The record is what it is.
8 BY MR. PIFKO:
9 Q. What's the correction that
10 you would like to make that obviously
11 your counsel told you to make?
12 MR. NICHOLAS: Hold on.
13 Hold on. I'll object to the
14 snarky comment --
15 MR. PIFKO: It's the
16 reality.
17 MR. NICHOLAS: -- which
18 is -- which is --
19 MR. PIFKO: Bob, you've got
20 a problem. We're already in the
21 process of raising it to the
22 court. You have a problem out of
23 every other lawyer in this whole
24 case of your coaching of

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1 witnesses. We're building the
2 record. But the transcripts are
3 very clear about your coaching and
4 your improper conduct.
5 And I'm dead serious right
6 now. I will seek to have your pro
7 hac vice revoked from the case if
8 you can't comply with the rules.
9 That is a remedy that is
10 appropriate. And if you can't
11 comply with the rules, then that's
12 where we're going to go.
13 I hope that we don't need
14 that. I think you're a nice
15 enough guy. But you really got to
16 tone it down. Okay? So that's
17 the end of this.
18 MR. NICHOLAS: No, wait,
19 wait, wait. I want to wait till
20 you complete your statement before
21 I respond.
22 MR. PIFKO: We're having --
23 you're not responding. I'm
24 taking --

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1 MR. NICHOLAS: Well, bring
2 your --
3 MR. PIFKO: -- a deposition
4 and you're interrupting the
5 deposition. Okay? We're not
6 doing this.
7 MR. NICHOLAS: I didn't
8 interrupt the deposition.
9 MR. PIFKO: Yeah, you did.
10 MR. NICHOLAS: I
11 interposed --
12 MR. PIFKO: You did.
13 MR. NICHOLAS: -- an
14 objection.
15 MR. PIFKO: Okay. And you
16 clearly -- you clearly coached the
17 witness to change the nature of
18 his testimony during the break.
19 It's very obvious from the record
20 that that's what occurred.
21 That's obviously improper.
22 Everybody knows that. Okay. And
23 that's what you did. And we're
24 going to have to live with it.

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1 But that's the reality of the
2 situation.
3 BY MR. PIFKO:
4 Q. So what's the correction
5 that you want to make?
6 MR. NICHOLAS: Before you
7 answer -- and you can answer. I
8 just want the record to be clear
9 that it is my view that there have
10 been extensive improper and
11 misleading questions asked
12 throughout the depositions that
13 I've been involved in.
14 I only object when there is
15 a need to correct something which
16 is clearly misleading and
17 improper.
18 MR. PIFKO: There's a way to
19 make objections. And you go
20 beyond what the way is.
21 MR. NICHOLAS: That's your
22 opinion.
23 MR. PIFKO: No, it's
24 obvious. When you state facts in

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1 your objection, you're going above
2 and beyond what you're supposed to
3 do when you make an objection. I
4 told you this at the last
5 deposition.
6 MR. NICHOLAS: Have I done
7 it today?
8 MR. PIFKO: No. You were
9 better until now. And you're
10 coaching the witness during the
11 break.
12 MR. NICHOLAS: Well, that --
13 okay. There's no basis for your
14 saying that.
15 MR. PIFKO: There is.
16 MR. NICHOLAS: If you want
17 to hear what he has to say, fine.
18 If you don't want to hear --
19 MR. PIFKO: I'm trying to
20 get it out of him --
21 MR. NICHOLAS: -- what he
22 has to say, fine. That's up to
23 you.
24 MR. PIFKO: -- but you're

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1 obstructing me from getting it out
2 of him right now.
3 BY MR. PIFKO:
4 Q. Okay. With that said,
5 what's the correction that you would like
6 to make?
7 A. The report that I reviewed,
8 the periodic report that I referenced
9 earlier, I indicated that it was a
10 possible suspicious order report. It's
11 actually called the possible excessive
12 purchase report.
13 Q. Okay.
14 A. That's the correction.
15 Q. But you remember it being
16 called the suspicious order report
17 because you were evaluating the
18 suspicious natures of the orders; is that
19 correct?
20 MR. NICHOLAS: Object to the
21 form.
22 THE WITNESS: No. We're
23 just talking multiple years since
24 I reviewed the report. So I just

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1 misunderstood -- I misremembered
2 what it was called.
3 BY MR. PIFKO:
4 Q. Okay. Why did you think it
5 was called a possible suspicious order
6 report?
7 A. I don't know. I just didn't
8 remember.
9 Q. Do you have an understanding
10 what an order that exceeds the threshold
11 is?
12 A. Well, it would depend.
13 Q. Well, before 2007, are you
14 aware that the company reported all
15 orders that exceeded thresholds as
16 suspicious to the DEA?
17 A. No. I don't know how those
18 reports were submitted and what was
19 submitted.
20 Q. Are you aware that the
21 company reported suspicious orders to the
22 DEA before 2007?
23 A. I did not know that. I
24 didn't know when it started. I didn't

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1 know when that happened or how it
2 happened.
3 Q. Are you aware that the
4 company has a duty to identify and report
5 suspicious orders?
6 A. Yes. We have a
7 responsibility to report suspicious
8 orders.
9 Q. And to identify them as
10 well?
11 A. Well, I think reporting it
12 would be identifying them, wouldn't it?
13 Q. Okay. Well, I just want to
14 make sure we are using the correct words
15 here.
16 Okay. So you are aware that
17 that's a requirement that the company
18 has, correct?
19 A. Yes, to review orders and
20 identify suspicious orders and block them
21 and report them.
22 Q. Okay. Is that a new
23 requirement?
24 A. No.

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1 Q. Okay. That's something that
2 you've always been required to do,
3 correct?
4 MR. NICHOLAS: Object to the
5 form. Go ahead.
6 THE WITNESS: Yes.
7 BY MR. PIFKO:
8 Q. As long as your tenure with
9 the company going back to the late '90s,
10 correct?
11 A. Yes.
12 Q. Okay.
13 A. Well, the regulation has
14 been -- has stated that since the early
15 '90s, yes.
16 Q. So we were going -- we
17 were -- before we went into that sidebar,
18 we were discussing your training and some
19 of your responsibilities as the regional
20 manager.
21 So you supervised about
22 eight compliance managers, five to eight,
23 depending on the time, and you were
24 responsible for conducting the audits,

<p style="text-align: right;">Page 302</p> <p>1 correct?</p> <p>2 A. Some of the audits, yeah.</p> <p>3 Q. Okay. Based on the schedule</p> <p>4 that was provided to you, correct?</p> <p>5 A. Yes.</p> <p>6 Q. And you said that when you</p> <p>7 took over that role, you got sort of</p> <p>8 on-the-job training with people who had</p> <p>9 already had experience conducting the</p> <p>10 audits; is that correct?</p> <p>11 A. Yes, that's correct.</p> <p>12 Q. Did you have any formal</p> <p>13 training sessions, went through a</p> <p>14 presentation at the company, or online</p> <p>15 training or anything like that?</p> <p>16 A. I don't recall.</p> <p>17 Q. And we were talking about</p> <p>18 your job responsibilities in that you</p> <p>19 added this investigations in 2005, and</p> <p>20 then you stopped doing them in 2007.</p> <p>21 That -- that was taken off your plate,</p> <p>22 did I hear you correctly?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. And then from 2007 to</p>	<p style="text-align: right;">Page 304</p> <p>1 A. A combination.</p> <p>2 Q. Okay. These were annual</p> <p>3 meetings, you said?</p> <p>4 A. Yes.</p> <p>5 Q. How many people would attend</p> <p>6 them?</p> <p>7 A. A lot of people. All of the</p> <p>8 compliance managers with the company.</p> <p>9 And the corporate CSRA associates.</p> <p>10 Q. About how many people would</p> <p>11 that be at a particular time?</p> <p>12 A. It would depend on the</p> <p>13 number of distribution centers we had at</p> <p>14 that period.</p> <p>15 Q. Okay. Can you give me a</p> <p>16 range?</p> <p>17 A. Well, when we first merged</p> <p>18 we had 52 distribution centers. We</p> <p>19 merged those down to 26, and I think it</p> <p>20 stayed right in that level. So 26</p> <p>21 compliance managers along with corporate</p> <p>22 associates which would -- which would</p> <p>23 vary over time.</p> <p>24 Q. Did you interact with -- so</p>
<p style="text-align: right;">Page 303</p> <p>1 2015, your job was to manage the</p> <p>2 compliance managers and to conduct the</p> <p>3 audits?</p> <p>4 A. Yes.</p> <p>5 Q. Any other responsibilities?</p> <p>6 A. No. That pretty much took</p> <p>7 all my time.</p> <p>8 Q. Okay. And did you get any</p> <p>9 other specific training at that time?</p> <p>10 A. At what time?</p> <p>11 Q. After 2007.</p> <p>12 A. No, not that I recall.</p> <p>13 Q. Did you attend -- was there</p> <p>14 like any regular annual training or</p> <p>15 anything you attended?</p> <p>16 A. We would conduct annual</p> <p>17 conferences with the entire CSRA</p> <p>18 department. So training sessions were</p> <p>19 conducted during -- during those</p> <p>20 sessions.</p> <p>21 Q. Who gave those trainings?</p> <p>22 A. Various associates.</p> <p>23 Q. Managers, or people under</p> <p>24 you, or?</p>	<p style="text-align: right;">Page 305</p> <p>1 your -- you were under the CSRA</p> <p>2 department, correct?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. But your area was</p> <p>5 just one area of the CSRA, correct?</p> <p>6 A. Well, I had a region, but</p> <p>7 there were other responsibilities that</p> <p>8 the CSRA department handled. But I was</p> <p>9 regulatory.</p> <p>10 Q. Right. So that's kind of</p> <p>11 what I'm trying to get at. So there</p> <p>12 was an -- was there an investigation</p> <p>13 group that was part of the CSRA that was</p> <p>14 Bruce Gundy's group?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. Were there other</p> <p>17 groups -- and then there -- there was</p> <p>18 your group that Steve Mays was in charge</p> <p>19 of; is that correct?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. Was there another --</p> <p>22 any other groups that you're aware of?</p> <p>23 A. There was a physical</p> <p>24 security manager.</p>

<p style="text-align: right;">Page 306</p> <p>1 Q. Okay. And what -- just one 2 person? 3 A. He may have had somebody 4 that worked under him. I don't recall. 5 Q. Okay. And what was his 6 role? 7 A. To oversee all the physical 8 security of the distribution centers, 9 alarm components and such. 10 Q. So from time to time would 11 you confer with him if you had an issue 12 of physical security at one of the 13 distribution centers under your audit 14 responsibility? 15 A. Yes, I would. 16 Q. What was his name? 17 A. Bob Crow. 18 Q. Was he in the -- that 19 position the whole time? 20 A. Most of the time. 21 Q. Do you remember who took 22 over his role? 23 A. It was reassigned I believe 24 to -- to the distribution centers,</p>	<p style="text-align: right;">Page 308</p> <p>1 A. It was a week long, I think. 2 Q. Okay. So you did that 3 full-time for that week for the -- it 4 wasn't like you were going to work and 5 then you'd go at night or something. You 6 went to that program for the week and 7 finished the course? 8 A. Correct. 9 Q. Okay. 10 A. Took my whole time for that 11 week. 12 Q. Where was that located? 13 A. It was in the city, here in 14 Philadelphia. 15 Q. Any other training that you 16 were provided? 17 A. We would go to conferences 18 from time to time, but nothing beyond 19 that. 20 Q. What kind of conferences? 21 A. DEA conferences. They have 22 a chemical conference, they have a 23 controlled substance conference, some 24 state conferences.</p>
<p style="text-align: right;">Page 307</p> <p>1 possibly the district directors. I don't 2 remember -- recall exactly who got that 3 role when he -- when he left. 4 Q. Other than the on-the-job 5 initial kind of training you did working 6 with other auditors and these annual 7 meetings, were there any other kinds of 8 trainings that you attended? 9 A. When I -- I believe before I 10 took over the director role I was sent to 11 Reid Interrogation School. 12 Q. What's that? 13 A. It's a school that teaches 14 you how to interrogate, conduct 15 interviews and interrogations. 16 Q. And that was -- what time 17 period did you do that? 18 A. I don't recall. 19 Q. Have an estimate of a range 20 of the years you think it might have 21 occurred? 22 A. Early 2000s. 23 Q. Okay. How long was that 24 program?</p>	<p style="text-align: right;">Page 309</p> <p>1 Q. Did you go to more than one 2 of those conferences a year? 3 A. No. 4 Q. Did you go to one every year 5 or just some years? 6 A. Just some years. 7 Q. How were you invited to 8 those? Just someone said you should go, 9 or was it a regular schedule? 10 A. No. I was assigned by my 11 senior director. 12 Q. Okay. To go to a specific 13 conference that occurred or just they 14 would say, I want you to go to this 15 conference next month? 16 A. He would instruct me which 17 conferences he wanted me to go to. 18 Q. Okay. And that was Steve 19 Mays? 20 A. Yes. 21 Q. Any other training that you 22 took that you can think of? 23 A. Possibly, but nothing that 24 comes to mind right now.</p>

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1 Q. We talked about the 2007
2 situation where the Orlando facility got
3 its registration revoked and -- do you
4 recall that?
5 A. Suspended.
6 Q. Suspended, correct. Sorry.
7 Do you recall that?
8 A. Yes.
9 Q. Okay. And you are aware
10 that there was some sort of settlement
11 agreement that was entered into between
12 the company and the DEA?
13 MR. NICHOLAS: Object to the
14 form.
15 THE WITNESS: Yeah, I'm
16 aware of some sort of agreement we
17 had.
18 BY MR. PIFKO:
19 Q. Okay. To your knowledge,
20 did that result in a substantial change
21 in the policies and procedures for the
22 CSRA?
23 MR. NICHOLAS: Object to the
24 form.

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1 THE WITNESS: Changes
2 resulted as a result of the
3 action.
4 BY MR. PIFKO:
5 Q. But did you feel that -- you
6 know, you had already been in your role
7 for quite a few years at that time. Did
8 you feel there was like a sea change of
9 how the company was looking at diversion
10 control after that?
11 A. A what change.
12 Q. A sea change, like a
13 dramatic shift in how the company saw its
14 regulatory responsibilities after that
15 happened?
16 MR. NICHOLAS: Object to the
17 form.
18 THE WITNESS: I would say
19 changes were implemented as a
20 result of that action, yes.
21 BY MR. PIFKO:
22 Q. And I believe you testified
23 earlier that there was a lot of internal
24 discussion as a result of that action,

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1 correct?
2 MR. NICHOLAS: Object to the
3 form.
4 THE WITNESS: I think I
5 stated I assumed there was, yes.
6 BY MR. PIFKO:
7 Q. Okay. You had a personal --
8 a loss in the family around that time?
9 A. That's correct.
10 Q. Okay. Did you take a leave
11 from the company as a result of that?
12 A. Yes, I did.
13 Q. Okay. For about how long?
14 A. I think it was just over two
15 weeks.
16 Q. And do you have a rough
17 estimate about when that was?
18 A. It was in the 2006-2007 time
19 frame.
20 Q. Okay. I'm going to hand you
21 another document.
22 (Document marked for
23 identification as Exhibit
24 AmerisourceBergen-Cherveny-2.)

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1 BY MR. PIFKO:
2 Q. I'm handing you what's been
3 marked as Exhibit 2. It is a PowerPoint.
4 It doesn't have a Bates number on it
5 because it was a native printout that we
6 had. But the Bates number is
7 ABDCMDL00269291.
8 Take a minute to review it
9 and let me know when you're done.
10 MR. NICHOLAS: Just for the
11 record, there's no stamp on it.
12 MR. PIFKO: Yeah, that's
13 what I was just saying. It was
14 produced natively. So it's
15 ABDCMDL00269291.
16 MR. NICHOLAS: Can you just
17 for the record tell us whether
18 there was a confidentiality
19 designation on the document?
20 MR. PIFKO: I assume it was
21 designated. We can go forward as
22 if it is. If it's not, we'll
23 correct the record later.
24 THE WITNESS: Okay.

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1 BY MR. PIFKO:
2 Q. All right. Have you seen
3 this document before?
4 A. Not that I recall.
5 Q. Do you know what a DCM is if
6 you look at the first page here?
7 MR. NICHOLAS: I think you
8 need to --
9 MR. PIFKO: It's
10 double-sided, I think.
11 MR. NICHOLAS: Where are
12 you? On the upper page?
13 MR. PIFKO: Yeah, the
14 very -- very first page. Yeah,
15 right there.
16 THE WITNESS: VP/DCM
17 meeting? Yes.
18 BY MR. PIFKO:
19 Q. What is a DCM?
20 A. That's an acronym for
21 distribution center manager.
22 Q. Okay. Those are people that
23 you would have interacted with when you
24 were conducting the audit?

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1 A. Yes.
2 Q. The date here, August 28,
3 2007, do you see that?
4 A. Yes.
5 Q. Based on your memory of
6 events, is that consistent with the time
7 on or around when the company had this
8 enforcement action in Orlando?
9 A. Yes, right in that time
10 period.
11 Q. Okay. You just spent a few
12 minutes looking at the document. Would
13 you agree that this is a discussion of
14 some changes that occurred as a result of
15 the suspension of the Orlando
16 registration?
17 MR. NICHOLAS: Object to the
18 form.
19 THE WITNESS: Yes, I would.
20 BY MR. PIFKO:
21 Q. Let's go to the second page
22 here. Do you see it says, "DEA's
23 internet pharmacy initiative, suspicious
24 order monitoring"?

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1 Do you see that?
2 A. Yes.
3 Q. Do you have an understanding
4 about what that is?
5 A. I don't remember what DEA's
6 initiative was with regard to that. That
7 was a long time ago.
8 Q. Okay. You don't recall ever
9 being asked to do anything as a result of
10 the initiative?
11 A. No.
12 Q. You don't recall ever being
13 told to do anything specific with respect
14 to concerns about internet pharmacies?
15 A. I don't recall anything that
16 I was instructed to do specific, no.
17 Q. Do you remember a discussion
18 about any specific concerns about
19 internet pharmacies in general?
20 A. We were aware that internet
21 pharmacies existed.
22 Q. Do you remember them being a
23 cause for concern?
24 A. Yes. That was a focus of

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1 our reviews.
2 Q. Okay. When do you remember
3 that being a focus of your reviews?
4 A. That general time period.
5 Q. In 2007?
6 A. Yes.
7 Q. And why did they become a
8 focus of your reviews at that time?
9 A. It was a lot of information
10 in the media about internet pharmacies.
11 We knew that it was a problem within the
12 country. We knew DEA had an initiative
13 to try to -- to try to address it.
14 Q. Diversion was occurring more
15 at these pharmacies; is that correct?
16 MR. NICHOLAS: Objection.
17 Object to the form.
18 THE WITNESS: According -- I
19 would say according to DEA. Yes.
20 BY MR. PIFKO:
21 Q. And you said you saw media
22 reports?
23 A. Yeah. There was a lot --
24 there was a lot of information out in the

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1 media regarding internet pharmacies back
2 then.
3 Q. What kind of information?
4 A. Just general information.
5 Q. Like discussing problems and
6 violations that were occurring at
7 internet pharmacies? Is that what you
8 mean?
9 A. Generally a problem within
10 the industry that was resulting in -- in
11 diversion according to the DEA, yes.
12 Q. Okay. And specifically
13 diversion of opioids?
14 A. Controlled substances in
15 general.
16 Q. Okay. But that includes
17 opioids?
18 A. Yes, controlled substance
19 includes opioids.
20 Q. You talked about you
21 understood this was a concern of
22 something that was being discussed at the
23 company, correct?
24 A. We were aware of it, yes.

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1 Q. Okay. What steps did the
2 company take to address those concerns?
3 A. I don't recall. It was too
4 long ago. I don't remember specific
5 steps that we took.
6 Q. Do you remember people
7 talking about taking any steps or just
8 being concerned?
9 A. Again, we're talking
10 11 years ago. I don't remember specific
11 steps that were taken.
12 Q. Do you remember if anyone
13 took any effort to take any steps?
14 A. I don't recall.
15 MR. PIFKO: Sterling is
16 telling me that this is marked
17 highly confidential. We can act
18 accordingly with this for the
19 record.
20 MR. NICHOLAS: Okay.
21 BY MR. PIFKO:
22 Q. Let go to -- Page -- there
23 are page numbers on here -- 4. Tell me
24 when you're there.

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1 A. Okay.
2 Q. It says, "DEA summary."
3 Do you see that?
4 A. Yes.
5 Q. Okay. It's got a timeline
6 of events here.
7 Do you see that?
8 A. Yes, I do.
9 Q. Okay. Is this consistent
10 with your understanding of the events
11 that occurred in connection with the
12 registration of the Orlando facility
13 being suspended?
14 A. Well, the fact that it's on
15 a PowerPoint that we produced, I would
16 assume this information is accurate.
17 Q. Okay. Did anyone contact
18 you when the Orlando facility first got
19 the order to show cause?
20 A. I don't remember who
21 contacted me.
22 Q. At some point, someone
23 contacted you about this issue, the fact
24 that the Orlando registration had been

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1 suspended, correct?
2 A. I would say that I became
3 aware of it.
4 Q. Okay. How do you believe
5 you first became aware of it?
6 A. I have no idea.
7 Q. You were conducting audits
8 at that time, correct?
9 A. Yes.
10 Q. Did anyone tell you that
11 there should be changes in the way the
12 company conducts its audit process to
13 prevent things like this from happening?
14 A. No, not that I recall.
15 Q. Do you recall having any
16 meetings about the fact that this was
17 happening and what the company was going
18 to do?
19 A. No. Like I said, as soon as
20 it happened -- it was bad timing. My
21 father passed away. So I had to leave
22 for, you know, a period of time. It
23 might have been more than two and a half
24 weeks. I think I stated that before.

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1 And when I got back, a lot of these
2 changes had already been made. So I was
3 sort of out of pocket when a lot of this
4 occurred.
5 Q. Okay. When you got back, do
6 you recall there being changes to the way
7 you were supposed to perform your job
8 functions?
9 A. I don't recall specifics.
10 Q. How about in general?
11 A. I don't recall.
12 Q. So you don't recall whether
13 there were any changes in how you had to
14 conduct your job functions after the
15 suspension occurred?
16 A. Not specifically.
17 Q. Or generally either, I'm
18 asking.
19 A. I know that the diversion
20 program was changed. I know that the
21 change resulted in the compliance
22 managers reporting to the regional
23 directors. I know those two changes
24 occurred. I don't remember exactly when

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1 those changes occurred following the
2 suspension. But I know that that those
3 were two changes that occurred.
4 Q. And you were one of the
5 regional directors, correct?
6 A. Yes.
7 Q. So the compliance managers
8 weren't reporting to you prior to that
9 time?
10 A. That's correct.
11 Q. They just reported up to the
12 distribution center managers? I believe
13 that's what you said.
14 A. That's correct.
15 Q. Do you have an understanding
16 as to why that change was made for the
17 compliance managers to report directly to
18 people like you?
19 A. I'm not sure what factors
20 played into that change, no.
21 Q. Then did you have the
22 ability to hire and fire them?
23 A. What, after they began
24 reporting to us?

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1 Q. Yeah.
2 A. Yeah, they reported to us.
3 Q. And do you know if their job
4 performance was measured on how
5 effectively they managed a distribution
6 center's compliance?
7 A. I don't recall.
8 Q. If violations occurred at a
9 facility, would there be disciplinary
10 action taken against a compliance
11 manager?
12 MR. NICHOLAS: Object to the
13 form.
14 THE WITNESS: We would
15 manage the compliance managers,
16 and they would be -- they would
17 be -- their performance would be
18 reviewed as a result of how
19 successful they were with regard
20 to their audit scores. So yes, it
21 played a direct role.
22 BY MR. PIFKO:
23 Q. So at the end of an audit,
24 there's an audit score?

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1 A. That's correct.
2 Q. Okay. So you as one of the
3 audits -- auditors, when you fill out the
4 audit report, you put a score at the end
5 of it?
6 A. Yes.
7 Q. What was the range of scores
8 that one could get?
9 A. I don't recall back then.
10 But I know when I left the audit findings
11 would accumulate and a score of 25 or
12 less was a passing score. Anything above
13 that would have been considered a failing
14 score.
15 Q. Did you ever discipline any
16 compliance managers who reported to you?
17 MR. NICHOLAS: Object to the
18 form.
19 THE WITNESS: You know, I
20 believe -- I can't remember
21 specifically. But I believe that
22 I -- I would put compliance
23 managers on a program if they --
24 if they were underperforming.

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1 BY MR. PIFKO:
2 Q. What was the program?
3 A. It's a performance program.
4 They would -- they would be reviewed, you
5 know, for a period of time after the
6 audit occurred that resulted in the plan.
7 I don't remember specifics. It's too
8 long ago. But that's generally how we
9 would handle compliance managers that
10 consistently had high scores or failing
11 audits.
12 Q. Do you believe you ever
13 terminated anyone who was a compliance
14 manager as a result of poor performance?
15 MR. NICHOLAS: Object to the
16 form.
17 THE WITNESS: Yes.
18 BY MR. PIFKO:
19 Q. You can -- on how many
20 occasions?
21 A. I terminated our compliance
22 manager in our Bellco distribution
23 center. In our Bethlehem distribution
24 center as well.

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1 Q. When did those terminations
2 occur?
3 A. I can't recall the specific
4 dates.
5 Q. In the last five years or
6 longer ago?
7 A. Oh, it was longer ago.
8 Q. The Bellco distribution
9 center, was that -- that was under your
10 purview?
11 A. Yes, it was.
12 Q. Are you aware that they had
13 a settlement with the Attorney General?
14 MR. NICHOLAS: Object to the
15 form.
16 THE WITNESS: I knew they
17 had action that was being taken
18 against them. I can't recall the
19 specifics of that action.
20 BY MR. PIFKO:
21 Q. Do you understand that that
22 action concerned diversion control
23 issues?
24 MR. NICHOLAS: Same

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1 objection.
2 THE WITNESS: I can't
3 remember specifics.
4 BY MR. PIFKO:
5 Q. Do you have any
6 understanding about what the action was
7 about?
8 A. I did --
9 MR. NICHOLAS: Same
10 objection.
11 THE WITNESS: I just don't
12 recall it right now. I didn't
13 really prepare for that.
14 BY MR. PIFKO:
15 Q. Is there something that you
16 would look at to refresh your
17 recollection?
18 MR. NICHOLAS: Same
19 objection. Object to the form.
20 THE WITNESS: Not here.
21 BY MR. PIFKO:
22 Q. Did you ever see a
23 settlement agreement between the Bellco
24 distribution center and the government?

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1 MR. NICHOLAS: Object to the
2 form.
3 THE WITNESS: I believe I
4 did.
5 BY MR. PIFKO:
6 Q. Would that have been
7 provided to you around the time that it
8 was executed?
9 MR. NICHOLAS: Object to the
10 form.
11 THE WITNESS: Yes, I believe
12 it would.
13 BY MR. PIFKO:
14 Q. Do you remember changing
15 anything about the operations at that
16 center as a result of the Attorney
17 General's action there?
18 MR. NICHOLAS: Same
19 objection.
20 THE WITNESS: I have a
21 general recollection that some
22 changes occurred as a result of
23 that action.
24 BY MR. PIFKO:

<p style="text-align: right;">Page 330</p> <p>1 Q. But you don't know what 2 changes were made? 3 A. There were a number of 4 changes. I can't remember specifics. It 5 was too long ago. 6 Q. Did it affect diversion 7 control activities? 8 MR. NICHOLAS: Same 9 objection. 10 THE WITNESS: Possibly. I 11 don't recall. 12 BY MR. PIFKO: 13 Q. Who was the manager of that 14 facility? 15 A. It transitioned over several 16 years to multiple people. I believe it 17 may have been Mike Lawlor at that time. 18 But I can't be certain. 19 Q. Were there -- are you aware 20 of whether there were any personnel 21 changes as a result of the Attorney 22 General's action concerning that 23 facility? 24 MR. NICHOLAS: Object to the</p>	<p style="text-align: right;">Page 332</p> <p>1 at that time? 2 A. Karen Girillo was my 3 compliance manager at that facility. 4 Q. Is there anything different 5 about that facility compared to other 6 distribution centers? 7 MR. NICHOLAS: Object to the 8 form. 9 THE WITNESS: Yeah. Bellco 10 had two divisions. They had one 11 full line wholesale operation that 12 serviced a Tri-State area and they 13 also had a division called Bellco 14 Generics that shipped products 15 nationwide. 16 BY MR. PIFKO: 17 Q. What -- how did the generics 18 business different from other types of 19 businesses that occurred at distribution 20 centers, AmerisourceBergen's distribution 21 centers? 22 MR. NICHOLAS: Objection. 23 Form and scope. Go ahead. 24 THE WITNESS: Bell Generics</p>
<p style="text-align: right;">Page 331</p> <p>1 form. 2 THE WITNESS: Don't remember 3 specifics with regards to 4 personnel changes resulting from 5 that. 6 BY MR. PIFKO: 7 Q. Did you personally interact 8 with anyone from the government in 9 connection with that action? 10 MR. NICHOLAS: Objection. 11 BY MR. PIFKO: 12 Q. The AG action concerning the 13 Bellco facility? 14 MR. NICHOLAS: Object to the 15 form. Scope. 16 THE WITNESS: I worked with 17 the distribution center to -- to 18 make corrections, but again it was 19 a long time ago. I don't remember 20 specifics. 21 BY MR. PIFKO: 22 Q. Is there a name of anyone 23 besides the manager of that distribution 24 center that you remember interacting with</p>	<p style="text-align: right;">Page 333</p> <p>1 specialized in low cost products, 2 limited products that were more 3 competitive than other 4 distribution centers and other 5 wholesalers. So they -- they had 6 a market across the United States. 7 They had customers in all 50 8 states. 9 BY MR. PIFKO: 10 Q. And then the -- the 11 Tri-State regional distribution, was that 12 more similar to the types of business 13 that the other distribution centers did? 14 MR. NICHOLAS: Same 15 objection. 16 THE WITNESS: Yes, that's 17 correct. 18 BY MR. PIFKO: 19 Q. Let's go back to Exhibit 2, 20 Slide 5. Do you see that? 21 A. Yes. 22 Q. Okay. It talks about 23 enhancements for the diversion control 24 program. Do you see that?</p>

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1 A. Order monitoring program?
2 Q. Well, where it says,
3 "48-hour reporting to DEA, know your
4 customer"?
5 A. Yeah.
6 Q. All those things, do you see
7 that?
8 A. Yeah.
9 Q. Okay. Are you familiar with
10 what those enhancements were?
11 A. Not in a detailed way, no.
12 Q. Do you know what "know your
13 customer" means?
14 A. Yes. I understand the DEA's
15 "know your customer" component.
16 Q. What is that, what is your
17 understanding of what that means?
18 A. That we should have a good
19 understanding of what their business
20 model is so we have a better
21 understanding of the orders that they are
22 placing with -- with our distribution
23 centers.
24 Q. And when you say "they," you

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1 mean your customer?
2 A. Correct.
3 Q. Did you -- have you -- other
4 than the investigations that you
5 conducted between 2005 and 2007, did you
6 ever conduct any due diligence
7 investigations concerning customers?
8 A. When you say --
9 MR. NICHOLAS: Object to the
10 form.
11 THE WITNESS: When you say
12 due diligence investigations, I
13 was -- I was conducting
14 investigations of a possible
15 excessive purchase report. So if
16 you would classify that as a due
17 diligence, then I would say yes.
18 BY MR. PIFKO:
19 Q. This is after 2007 is what
20 I'm asking.
21 A. Post 2007?
22 Q. Yeah.
23 A. No. My responsibilities
24 ceased after 2007 regarding that.

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1 Q. Okay. So did you -- did you
2 have any involvement with conducting this
3 "know your customer" due diligence that's
4 discussed here that was implemented in
5 2007?
6 A. No, I don't believe so.
7 That was handled by a different team.
8 Q. Do you know the team that
9 handled that?
10 A. That was the diversion
11 control team under corporate.
12 Q. Who -- who was on that team?
13 A. I don't recall the specific
14 individuals. I know it was headed by Ed
15 Hazewski.
16 Q. Anyone else that you can
17 think of?
18 A. Those investigators
19 transitioned in and out. I don't recall.
20 Scott Kirsch was one investigator.
21 Q. Anyone else?
22 A. I can't remember.
23 Q. Order monitoring program.
24 Next thing down here. It's got establish

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1 thresholds. Do you know what a threshold
2 is?
3 A. Yes, I have a basic
4 understanding of what a threshold is.
5 Q. Okay. What's your
6 understanding?
7 A. I don't know exactly what
8 went into those thresholds. I know it's
9 a level at which, you know, purchase
10 activity would draw a flag and hold the
11 order until it could be investigated.
12 Q. And then it says, "Review at
13 distribution centers." Is that what it
14 says?
15 A. Yes.
16 Q. Okay. What does that mean,
17 do you know what that means?
18 A. I believe that's when the
19 RPICs were implemented at the DC level.
20 Q. And before that what was the
21 process?
22 A. Prior to 2007 orders weren't
23 held when investigation -- or when a
24 suspicious order was flagged. We would

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1 conduct those investigations after the
2 fact.
3 Q. And so was there a personnel
4 change? I believe we -- we talked about
5 that under the computer ordering system,
6 there are other reasons for an order to
7 be flagged like if there was a payment
8 credit issue -- I forget, there was some
9 other reason that you said for an order
10 to be held. So there was already someone
11 whose job it was to be doing that prior
12 to 2007; is that correct?
13 MR. NICHOLAS: Object to the
14 form. Go ahead.
15 THE WITNESS: Yeah. There
16 were -- there were other hold
17 codes that did not include the
18 order monitoring program hold
19 code. So there was a number of
20 hold codes that would hold an
21 order, like licensing, credit and
22 that kind of thing.
23 BY MR. PIFKO:
24 Q. Okay. And so there was

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1 already someone's job who it was to deal
2 with those holds, correct?
3 A. Yes. I believe so.
4 Q. Okay. Were -- were those
5 same people then added this
6 responsibility of reviewing the order
7 monitoring program holds?
8 A. Back in that time frame, I
9 don't recall who was handling those kinds
10 of holds at the distribution center
11 level.
12 Q. You don't know who the RPICs
13 were when this program was initiated?
14 A. No.
15 Q. Okay. I believe you
16 testified earlier that the -- the data
17 manage -- data management people, I
18 forget what the term you used?
19 A. It was just one of -- they
20 were usually an RPIC.
21 Q. Okay.
22 A. But there were other people
23 at the division -- at the -- at the DC
24 level who had that responsibility as

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1 well.
2 Q. Who else had that
3 responsibility?
4 A. A number of -- a number of
5 associates held that responsibility
6 including the warehouse managers,
7 compliance clerks.
8 Q. The order -- we talked about
9 the filling of orders earlier. Do you
10 recall that? It comes in from the
11 computer. They put it in the totes,
12 things like that?
13 A. Yes.
14 Q. That occurs at night,
15 correct?
16 A. Depending on the
17 distribution center. Some of those
18 happen during the day as well.
19 Q. Okay. Does it primarily
20 occur at night?
21 A. Yes.
22 Q. The investigation thing here
23 on Page 5. Do you see that?
24 A. Yes.

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1 Q. Do you know what that's
2 referring to?
3 A. It states, "Report to DEA."
4 I can't state specifically what they are
5 referring to in that bullet point.
6 Q. The next section, on Page 6,
7 it says, "Audits, investigations, and
8 regulatory activity."
9 That's -- that was --
10 includes activities in your purview as
11 the regional director, correct?
12 A. Yes.
13 Q. Go to the next page. It's
14 got a summary of DEA audits.
15 Do you see that?
16 A. Yes.
17 Q. Are you familiar with these
18 statistics?
19 A. Not for this particular
20 PowerPoint. But I would take this
21 information as being accurate.
22 Q. These are -- concern audits
23 and inspections at AmerisourceBergen's
24 facilities?

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1 A. Yes.
2 Q. It mentions this MOU here.
3 Do you see that, in 2006?
4 A. Yes.
5 Q. Do you know what that was?
6 A. No, I don't recall.
7 Q. It says here, "Not good."
8 Do you see that?
9 A. Yes.
10 Q. You agree with -- that an
11 MOU is not -- not good?
12 A. From a regulatory --
13 MR. NICHOLAS: Object to --
14 THE WITNESS: Sorry.
15 MR. NICHOLAS: Object to the
16 form.
17 THE WITNESS: Yeah, from a
18 regulatory standpoint we don't
19 like MOUs.
20 BY MR. PIFKO:
21 Q. Why is that?
22 A. Because we were doing
23 something wrong, according to DEA.
24 Q. When there's an MOU, do you

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1 try to change what's going on at the
2 facility so you don't -- so it doesn't
3 happen again?
4 A. Yes.
5 Q. It's a serious event?
6 MR. NICHOLAS: Object to the
7 form.
8 THE WITNESS: Yes, it is.
9 BY MR. PIFKO:
10 Q. How about a letter of
11 admonition? Do you see that? Just above
12 that?
13 A. Yes. Yes, I do.
14 Q. Is that a significant event?
15 A. Yes.
16 MR. NICHOLAS: Object to the
17 form.
18 THE WITNESS: Yes.
19 BY MR. PIFKO:
20 Q. Do you recall what that's
21 referring to in 2006?
22 A. No, I don't.
23 Q. It talks about 2007
24 activities, the registration suspension.

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1 That's for the Orlando facility?
2 A. Yes.
3 Q. And then it says, "Six
4 distribution center inspections for order
5 monitoring program compliance."
6 Is that correct?
7 A. Yes.
8 Q. Do you know what those were?
9 A. I believe they were the six
10 distribution centers that the DEA audited
11 as a precursor to get our registration
12 back in active status for the Orlando
13 distribution center.
14 Q. Okay. So the Orlando
15 distribution center had issues that led
16 to the suspension, and then the DEA went
17 to inspect other facilities as a result
18 of that?
19 MR. NICHOLAS: Object to the
20 form.
21 THE WITNESS: That's my
22 understanding of the chronology,
23 yes.
24 BY MR. PIFKO:

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1 Q. How did you come to that
2 understanding?
3 MR. NICHOLAS: Same
4 objection.
5 THE WITNESS: Based on this
6 report.
7 BY MR. PIFKO:
8 Q. Did you talk to anyone at
9 the company about that?
10 A. I don't recall back in that
11 time period.
12 Q. Okay. But looking at that,
13 you're able to tell the chronology?
14 MR. NICHOLAS: Same
15 objection.
16 THE WITNESS: I very vaguely
17 recall, you know, what transpired
18 in the 2007 time frame. I
19 remember there was audits from the
20 DEA in order to get the
21 registration back in active
22 status.
23 BY MR. PIFKO:
24 Q. Would you have attended any

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1 of those audits if the DEA conducted an
2 audit?
3 MR. NICHOLAS: Object to the
4 form.
5 THE WITNESS: I don't recall
6 if I attended any of those. I may
7 have attended one. I don't
8 recall.
9 BY MR. PIFKO:
10 Q. As an auditor, was that
11 something that you would do from time to
12 time if the DEA wanted to audit the
13 facility, would they -- would you
14 accompany them on such an audit?
15 MR. NICHOLAS: Object to the
16 form.
17 THE WITNESS: Not routinely.
18 Normally the DEA would conduct
19 unannounced audits, and the audit
20 was initiated at one of our
21 distribution centers. We would
22 work with the compliance manager.
23 But we wouldn't travel there to
24 conduct the audit with the DEA.

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1 BY MR. PIFKO:
2 Q. Okay. So DEA arrives at a
3 facility on such an occasion. The
4 compliance manager might call you to ask
5 for advice?
6 MR. NICHOLAS: Object to the
7 form.
8 THE WITNESS: Per internal
9 policy, if the DEA walks in to
10 initiate an audit, they're
11 required to notify their regional
12 director immediately.
13 BY MR. PIFKO:
14 Q. The compliance manager is
15 required to notify you? Is that what
16 you're saying?
17 A. Yes, correct.
18 Q. And so you would interact
19 with them on the phone and maybe by
20 e-mail, but you wouldn't show up in
21 person?
22 MR. NICHOLAS: Object to the
23 form.
24 THE WITNESS: That's

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1 correct. Not routinely.
2 BY MR. PIFKO:
3 Q. Going to Slide 8, it's got a
4 list of different audits of different
5 facilities. Are these all facilities
6 that the company had around 2007?
7 A. Yes, that appears to be the
8 information on this page.
9 Q. It's consistent with what
10 your understanding is about the
11 facilities based on your experience with
12 the company?
13 A. I'm not sure I understand
14 your question.
15 Q. I'm just -- well, you said
16 this is what's on the page. But I'm
17 asking you, you worked there. Is this --
18 these names of these places, is this
19 consistent with facilities that the
20 company had at the time?
21 A. Yes, I would agree with
22 that.
23 Q. Okay. And these would be
24 months and years when the facilities had

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1 audits?
2 A. Yeah. This would be the
3 most recent DEA audit for these subject
4 distribution centers.
5 Q. Okay. Some of these have a
6 letter G after it. Do you know what that
7 refers to?
8 MR. NICHOLAS: Object to the
9 form, and no foundation.
10 THE WITNESS: That's a
11 designation for Greenfield
12 distribution centers.
13 BY MR. PIFKO:
14 Q. What?
15 A. I believe the G is a
16 designation for Greenfield distribution
17 centers.
18 Q. Okay. What does that mean?
19 A. Those facilities were larger
20 than a standard facility. They had a
21 common footprint. They had a common
22 blueprint. And we mimicked that
23 blueprint and footprint in multiple
24 distribution centers throughout the

<p style="text-align: right;">Page 350</p> <p>1 company. So it's just a -- designates a 2 larger distribution center. 3 Q. Okay. They're like clones 4 of each other, essentially? 5 MR. NICHOLAS: Object to the 6 form. 7 THE WITNESS: Not exactly. 8 But generally they have the common 9 footprint and blueprint, yeah. 10 BY MR. PIFKO: 11 Q. And these were the largest 12 facilities? 13 MR. NICHOLAS: Same 14 objection. 15 THE WITNESS: Within the ABC 16 network, yes. 17 BY MR. PIFKO: 18 Q. You visited all these 19 facilities over your tenure as an 20 auditor? 21 A. Yes, I visited all of them. 22 Q. In the copy that was 23 produced in its actual -- as we call it, 24 native format, you can see up on the</p>	<p style="text-align: right;">Page 352</p> <p>1 A. Yes. This looks -- this 2 looks routine for those years. 3 Q. Let's go to Slide 11. It 4 talks about audit results. 5 Do you see this? 6 A. Yes. 7 Q. Do you have an understanding 8 about what's being communicated here? 9 MR. NICHOLAS: Objection. 10 Form. Foundation. 11 THE WITNESS: Yes. 12 BY MR. PIFKO: 13 Q. Can you tell me what's being 14 communicated here? 15 A. It's showing CSRA audits 16 that were conducted in the years 2005, 17 2006, 2007, and 2008 with the high level 18 results of those audits. 19 Q. What does that mean? The 20 results there, how do I understand that? 21 Level 1, Level 2, Level 3, and it's got 22 some percentages. 23 A. As I indicated before, I 24 don't remember exactly the audit score</p>
<p style="text-align: right;">Page 351</p> <p>1 screen it's in color. The facilities on 2 the right are in red. 3 Do you have an understanding 4 about why those are in red? Is there 5 something different about those 6 facilities as it concerns audit history 7 versus the other facilities? 8 MR. NICHOLAS: Objection. 9 Form. Foundation. 10 THE WITNESS: No, I don't 11 recall what that designates. 12 BY MR. PIFKO: 13 Q. Go to Slide 10, please. 14 State agencies would audit your 15 facilities from time to time as well; is 16 that correct? 17 A. That's correct. 18 Q. Okay. Seeing these 19 statistics here, Board of Pharmacy, 20 Department of Health inspections from 21 2004 to 2007, is that consistent with 22 your understanding of the number of 23 inspections that would have occurred by 24 state agencies?</p>	<p style="text-align: right;">Page 353</p> <p>1 requirements to be a passing audit in 2 2005, 2006, 2007, during those years. 3 But I believe 25 was the audit score that 4 would be considered a passing score. So 5 that would be considered a Level 1 audit. 6 There was a subsequent score 7 of Level 2 that was a range above 25, and 8 then that was a Level 2. And if it went 9 above that level two and it became a 10 Level 3 audit. So it was just degrees 11 above a passing audit that was, you know, 12 different degrees of failing the audit. 13 Q. Okay. 14 A. So that's basically what 15 you're seeing here. 25 had a passing 16 audit. One had a Level 2 audit, which 17 was a low -- low level fail, and then one 18 had a Level 3 audit which was a higher 19 level fail. 20 Q. And it looks like, if I go 21 to 2006, you can have a Level 4 failure, 22 which is even higher? 23 A. Yes. 24 Q. So this is reflecting the</p>

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1 number of facilities and how they fell
2 into the passing rates?
3 A. Yes.
4 Q. Go to Slide 13. Are you
5 there?
6 A. Yes.
7 Q. It talks about
8 investigations. Are you familiar what
9 this slide is reflecting?
10 MR. NICHOLAS: Objection.
11 Form. Foundation.
12 THE WITNESS: It indicates
13 the number of investigations that
14 were conducted in each year, it
15 looks like.
16 BY MR. PIFKO:
17 Q. Okay. It talks about
18 projecting a 1,500 percent increase from
19 2004 to 2007.
20 Do you see that?
21 A. Yes.
22 Q. Do you have an understanding
23 about why there was a projection that it
24 would increase to that degree?

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1 MR. NICHOLAS: Same
2 objection. Form. Foundation.
3 THE WITNESS: No, I don't
4 have a -- I don't have a detailed
5 recollection of what these
6 investigations entailed or what
7 type of investigations they were.
8 So I -- I don't recall.
9 BY MR. PIFKO:
10 Q. Do you have an understanding
11 about why they were projecting a
12 substantial increase in investigations in
13 2007?
14 MR. NICHOLAS: Same
15 objection. Form. Foundation.
16 THE WITNESS: I don't
17 recall.
18 BY MR. PIFKO:
19 Q. Go to Slide 16. It talks
20 about the impact to AmerisourceBergen
21 Corporation. Do you see that?
22 A. Yes.
23 Q. One of them is financial
24 impact. Do you see that?

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1 A. Yes.
2 Q. Is it your understanding
3 there's a financial impact when there's
4 regulatory action taken against a
5 AmerisourceBergen facility?
6 MR. NICHOLAS: Object to the
7 form and to foundation.
8 THE WITNESS: Not always.
9 BY MR. PIFKO:
10 Q. Do you agree with the --
11 MR. PIFKO: Can people on
12 the phone mute their phone?
13 BY MR. PIFKO:
14 Q. Do you have an understanding
15 about what this is referring to here when
16 it talks about the financial impact?
17 MR. NICHOLAS: Objection to
18 the form and to the foundation.
19 THE WITNESS: Well, if it
20 relates to the action in Orlando,
21 we had to take a lot of steps to
22 service our customers from
23 distribution centers other than
24 Orlando DC. So that obviously

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1 would have a financial impact.
2 Beyond that, I couldn't really
3 speak to it.
4 BY MR. PIFKO:
5 Q. When you say you had to take
6 steps to serve your customers from other
7 distribution centers, what do you mean?
8 A. Well, those accounts were
9 set up under the Orlando distribution
10 center. And if we have to change the
11 system to ship these products from other
12 distribution centers, then that took a
13 lot of work.
14 Q. So when that distribution
15 center was shut down, you serviced its
16 accounts through other distribution
17 centers; is that correct?
18 A. Yes, that's correct.
19 Q. Do you know if any accounts
20 were terminated as a result of the
21 suspension and the activities that
22 occurred at that facility?
23 A. I don't know. That would
24 not have been in my area at that time.

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1 Q. Have you ever heard of
2 something called the do-not-ship list?
3 A. Yes, I'm familiar with that.
4 Q. What does that mean if
5 somebody is on the do-not-ship list?
6 A. It's a list that indicates
7 customers that the company has terminated
8 so we just have kept a record of it over
9 years.
10 Q. Are you supposed to be
11 shipping controlled substances to a
12 facility or a customer who is on the
13 do-not-ship list?
14 A. Well, the list indicates a
15 documented history of customers that were
16 blocked. So it didn't indicate that we
17 couldn't reactivate them at a later date
18 based on current information that we had
19 on them. So just to clarify that answer.
20 Q. Okay. But --
21 A. While they were on there we
22 would not ship to that customer.
23 Q. Okay. But if they are on
24 the do-not-ship list and they haven't

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1 been reactivated, you shouldn't be
2 shipping controlled substances to them;
3 is that correct?
4 A. Yeah, unless they were on
5 there in error, I would agree with that.
6 Q. Okay. It would violate the
7 company's policy to do so, correct?
8 MR. NICHOLAS: Object to the
9 form. Go ahead.
10 THE WITNESS: I'm not sure
11 how the -- the do-not-ship list
12 was documented in policy. But I
13 would agree generally that, yeah,
14 unless they are on there in error,
15 they shouldn't be receiving
16 controlled substances.
17 MR. NICHOLAS: Before you
18 get to the next document, if
19 you're going to be a while, can we
20 get a break?
21 MR. PIFKO: It'll be quick.
22 MR. NICHOLAS: Is this the
23 last -- are you close to the end
24 of the examination?

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1 MR. PIFKO: Yeah, but --
2 just this document will be quick.
3 I guess we don't -- we can take a
4 quick break.
5 MR. NICHOLAS: How much
6 longer do you think you have,
7 Mark?
8 MR. PIFKO: I'll give you a
9 better estimate when we come back.
10 THE VIDEOGRAPHER: Going off
11 the record at 4:09 p.m.
12 (Short break.)
13 THE VIDEOGRAPHER: Back on
14 record. The time is 4:20 p.m.
15 (Document marked for
16 identification as Exhibit
17 AmerisourceBergen-Cherveny-3.)
18 BY MR. PIFKO:

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7 Q. Handing you what's been
8 marked as Exhibit 6.
9 (Document marked for
10 identification as Exhibit
11 AmerisourceBergen-Cherveny-6.)
12 BY MR. PIFKO:
13 Q. For the record it's a
14 two-page document Bates labeled
15 ABDCMDL00145773 and 774.
16 Your name is at the top
17 sending an e-mail to Steve Mays dated
18 February 26, 2013. Subject, proposed
19 meeting. Barbara Bookholdt.
20 Let me know when you're
21 ready to discuss.
22 A. Okay.
23 Q. So this is talking about
24 setting up a meeting with the chief of

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1 the regulatory section of the DEA that
2 oversees suspicious order investigations
3 and DEA audits. Do you see that?
4 A. Yeah, I don't know. I
5 didn't know who Barbara was based on
6 this. But are you stipulating that
7 it's --
8 Q. Well, it says in the middle
9 here: "All, we have a tentative
10 agreement from the chief of the
11 regulatory section that oversees..."
12 Do you see that?
13 A. Yes.
14 Q. Okay. She is someone at the
15 DEA as far as you know?
16 A. Yeah, I don't know who
17 Barbara Bookholdt is, yeah.
18 Q. Do you recall discussing a
19 meeting with the DEA to go over the
20 issues that are reflected on 145774?
21 A. No, I don't remember this --
22 this meeting being conducted.
23 Q. Do you remember these --
24 these e-mails?

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1 A. No.
2 Q. It says here, you write at
3 the top, you say: I'm not sure how
4 specific we want to get with the CSOS
5 issues given our current setup."
6 Do you see that?
7 A. Yes.
8 Q. Do you know what that's
9 referring to?
10 A. I don't recall.
11 Q. Do you remember having
12 concerns?
13 MR. NICHOLAS: Object to the
14 form.
15 THE WITNESS: I don't think
16 it was a concern. I think it was
17 regarding CSOS. The DEA largely
18 doesn't understand their own CSOS
19 program. And then we have to
20 explain it to them in more times
21 than not. So I think that's
22 probably where I was going here.
23 But I don't recall this e-mail.
24 BY MR. PIFKO:

<p style="text-align: right;">Page 370</p> <p>1 Q. So is there something unique 2 about your -- the way your system is set 3 up compared to other members of the 4 industry as far as you know? 5 MR. NICHOLAS: Object to the 6 form. Lack of foundation. 7 THE WITNESS: Not that I 8 recall, no. 9 BY MR. PIFKO: 10 Q. It talks about on 145774 the 11 settlement agreement expiring. Do you 12 see that? 13 A. Yes. 14 Q. Do you have an understanding 15 about that? 16 A. Yeah. That's -- I think 17 that's an error. I know it expired at 18 one point. But it was renewed subsequent 19 to that. So I don't think that's -- 20 that's an accurate statement. But I do 21 see where they state that in the e-mail. 22 Q. What's your basis for 23 understanding that there was a renewal? 24 A. General, my general</p>	<p style="text-align: right;">Page 372</p> <p>1 involvement with -- did you take on 2 serving on the regulatory affairs 3 committee at the HDA when you took on 4 that role? 5 A. No, I did not. 6 Q. Do you now have any 7 involvement with the HDA? 8 A. No, none. 9 Q. Okay. The -- the second 10 page, I don't know if you understand when 11 a document is produced in litigation, if 12 you imagine like in your -- on your 13 desktop, if you click on a document it 14 carries with it that it was created by 15 someone or you know that it's connected 16 to someone's computer. So the data that 17 accompanied this file shows that it came 18 from your files, the second page here. 19 And so my question to you 20 is, do you remember looking at or 21 drafting redlines of this bill that was 22 being discussed here? 23 A. No, I don't. 24 Q. Okay. Do you know what this</p>
<p style="text-align: right;">Page 371</p> <p>1 understanding of where we currently are 2 with the agreement with the DEA resulting 3 from the 2007 action. 4 Q. Do you recall discussing 5 that with anyone specifically? 6 A. No. 7 MR. NICHOLAS: Object to the 8 form. 9 (Document marked for 10 identification as Exhibit 11 AmerisourceBergen-Cherveny-4.) 12 BY MR. PIFKO: 13 Q. I'm handing you what's 14 marked as Exhibit 4. 15 For the record, this is a 16 two-page document, Bates labeled 17 ABDCMDL001731146 and 147. 18 A. Okay. 19 Q. Okay. You were in your 20 diversion control function at this point, 21 correct? 22 A. Yeah. I was just -- it was 23 in my first six months, yeah. 24 Q. Okay. Did you have any</p>	<p style="text-align: right;">Page 373</p> <p>1 discussion is about? 2 A. It looks like HDMA having a 3 discussion with regards to regulation. 4 Q. Well, they are talking about 5 a Senate Bill 483, DEA enforcement bill, 6 do you see that? 7 A. Yes. Yeah. 8 Q. Do you have any knowledge 9 about what that is? 10 MR. NICHOLAS: Objection. 11 Lack of foundation. And object to 12 the form. 13 THE WITNESS: No, I had 14 nothing to do with any review of 15 this document. 16 BY MR. PIFKO: 17 Q. Did you have any 18 understanding about why your name would 19 be linked to the -- the attached language 20 on this document? 21 MR. NICHOLAS: Objection. 22 Lack of foundation, and object to 23 the form of the document and -- go 24 ahead.</p>

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1 THE WITNESS: No. It might
2 have been on the distribution
3 list. It might have come to me.
4 BY MR. PIFKO:
5 Q. Have you heard of the
6 Ensuring Patient Access to Care Act?
7 A. No.
8 Q. Are you aware that through
9 the HDA, certain members of the
10 pharmaceutical industry were trying to
11 change laws and regulations that the DEA
12 enforced?
13 MR. NICHOLAS: Objection to
14 the lack of foundation as well as
15 to the form.
16 THE WITNESS: No, I don't
17 recall this.
18 (Document marked for
19 identification as Exhibit
20 AmerisourceBergen-Cherveny-5.)
21 BY MR. PIFKO:
22 Q. I'm handing you what's been
23 marked as Exhibit 5.
24 For the record Exhibit 5 is

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1 Bates-labeled ABDCMDL0047022 through
2 47078. It's an e-mail dated July 12,
3 2017. David May is asking you to listen
4 on this call on his behalf.
5 Do you see that?
6 A. Yes.
7 Q. Do you recall that
8 occurring?
9 A. I do not.
10 Q. Did David from time to time
11 ask you to sit in on had calls for him?
12 A. Very seldom.
13 Q. But on occasions, certain
14 occasions you did?
15 A. Like I said, very seldom.
16 This may have been the only time.
17 Q. And do you recall the
18 discussion being reflected here?
19 A. Not at all.
20 Q. Do you believe that you
21 would have dialed into this call?
22 A. Unless he subsequently told
23 me that he had it covered by somebody
24 else. But I don't recall attending this

Page 376

1 specific conference call.
2 Q. Do you know what the Masters
3 decision is? Do you see that reflected
4 here?
5 A. I have a basic understanding
6 of the Masters decision.
7 Q. What's your understanding of
8 it?
9 A. Masters was a wholesale
10 distributor, and they were cited by the
11 DEA for not following internal policy
12 with regards to the regulation.
13 Q. That's all of your
14 understanding?
15 A. They didn't follow internal
16 regulations, and they were cited as a
17 result of that. That's basically my
18 understanding of it. I don't -- I don't
19 get too involved in litigation like this.
20 That really is handled by David May. I
21 spend all of my time with managing our
22 day-to-day operation of our diversion
23 program. So I really don't get into the
24 analysis too much of things like this.

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1 Q. Did anyone discuss the
2 Masters decision with you or talk about
3 any changes that need to be made to the
4 company because of it?
5 A. No. Those kinds of
6 discussions happened over my head.
7 Q. Okay. How about the
8 Mallinckrodt settlement? You see that's
9 referenced there?
10 A. Yes.
11 Q. Do you know what that is?
12 A. I don't even recall exactly
13 what the Mallinckrodt settlement
14 entailed.
15 Q. Okay. Do you know who
16 Mallinckrodt is?
17 A. Yes.
18 Q. What are they?
19 A. They are a manufacturer.
20 Q. Okay. You're aware that
21 they had some sort of issue that led to a
22 settlement?
23 A. Yes. I'm generally aware of
24 it.

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1 Q. Okay. What were you aware
2 of?
3 A. Generally that they had an
4 issue that resulted in a settlement.
5 Q. Okay. Do you know if it
6 concerned diversion control issues?
7 A. I don't remember to what
8 degree diversion was involved in that
9 settlement cited.
10 Q. Do you know if anyone at the
11 company was concerned about the company's
12 activities as a result of that
13 settlement?
14 MR. NICHOLAS: Object to the
15 form. Lack of foundation.
16 THE WITNESS: I don't know.
17 BY MR. PIFKO:
18 Q. Do you feel that you had
19 adequate resources to perform your job
20 functions?
21 A. Under what job title?
22 Q. When you were -- from -- in
23 the job you held from -- as the regional
24 manager from 2002 to 2015?

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1 MR. NICHOLAS: Object to the
2 form.
3 THE WITNESS: Yes. I had
4 adequate resources to do my job.
5 BY MR. PIFKO:
6 Q. Did you feel that -- you
7 said it took all your time. Do you feel
8 like you had too much to do?
9 MR. NICHOLAS: Object to the
10 form. Go ahead.
11 THE WITNESS: It was a very
12 demanding job, a lot of putting
13 out of fires. But yes, I had
14 adequate sources to do the job
15 adequately.
16 BY MR. PIFKO:
17 Q. When you took the job of
18 managing the RPICs, did that add to your
19 workload?
20 A. I don't know what you mean
21 by when I took my job to manage the
22 RPICs. Meaning when -- I don't know
23 what--
24 Q. When the -- when the

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1 compliance managers had to -- I'm sorry,
2 compliance managers, not the RPICs. That
3 add to your workload?
4 MR. NICHOLAS: Object to the
5 form.
6 THE WITNESS: I'm not sure I
7 understand. You mean at the point
8 that they started reporting to me?
9 BY MR. PIFKO:
10 Q. Yes.
11 A. Yes, that added -- that
12 added work to our -- to our positions.
13 Q. Did you get any additional
14 staffing to help you with that?
15 A. No.
16 MR. PIFKO: I don't have any
17 further questions.
18 MR. NICHOLAS: Just give me
19 one minute.
20 THE VIDEOGRAPHER: Going off
21 the record. 4:47 p.m.
22 (Short break.)
23 MR. NICHOLAS: We have no
24 questions.

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1 MR. PIFKO: I think -- we
2 may meet and confer with you in
3 the future. But I think there's
4 some issues with documents, and
5 we'll discuss it, but to the
6 extent that that affects this
7 deposition, we hold it open for
8 that.
9 (Excused.)
10 (Deposition concluded at
11 approximately 4:50 p.m.)
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CERTIFICATE

I HEREBY CERTIFY that the witness was duly sworn by me and that the deposition is a true record of the testimony given by the witness.

It was requested before completion of the deposition that the witness, ERIC CHERVENY, have the opportunity to read and sign the deposition transcript.

MICHELLE L. GRAY,
A Registered Professional
Reporter, Certified Shorthand
Reporter, Certified Realtime
Reporter and Notary Public
Dated: November 14, 2018

(The foregoing certification of this transcript does not apply to any reproduction of the same by any means, unless under the direct control and/or supervision of the certifying reporter.)

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INSTRUCTIONS TO WITNESS

Please read your deposition over carefully and make any necessary corrections. You should state the reason in the appropriate space on the errata sheet for any corrections that are made.

After doing so, please sign the errata sheet and date it.

You are signing same subject to the changes you have noted on the errata sheet, which will be attached to your deposition.

It is imperative that you return the original errata sheet to the deposing attorney within thirty (30) days of receipt of the deposition transcript by you. If you fail to do so, the deposition transcript may be deemed to be accurate and may be used in court.

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ACKNOWLEDGMENT OF DEPONENT

I, _____, do hereby certify that I have read the foregoing pages, 1 - 386, and that the same is a correct transcription of the answers given by me to the questions therein propounded, except for the corrections or changes in form or substance, if any, noted in the attached Errata Sheet.

ERIC CHERVENY DATE

Subscribed and sworn to before me this _____ day of _____, 20____.

My commission expires: _____

Notary Public

	LAWYER'S NOTES		
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